

# EXHIBIT 3

Transcript of Toby McBride  
Conducted on November 15, 2024

1 (1 to 4)

1	3
1 UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S
2 FOR THE DISTRICT OF NEVADA	2
3 -----x	3 ON BEHALF OF THE PLAINTIFF:
4 JAMES DEPPOLETO, :	4 PATRICK HARVEY, ESQUIRE
5 Plaintiff, : Civil Action No.	5 HUSCH BLACKWELL, LLP
6 v. : 2:22CV02013	6 511 North Broadway, Suite 1100
7 TAKEOVER INDUSTRIES :	7 Milwaukee, WI 53202
8 INCORPORATED, et al., :	8 (414) 273-2100
9 Defendants. :	9
10 -----x	10
11	11 ON BEHALF OF THE DEFENDANTS:
12	12 DON BENNION, JR., ESQUIRE
13	13 LAW OFFICE OF S. DON BENNION
14 Videotaped Deposition of TOBY MCBRIDE	14 6980 O Bannon Drive, Suite 400
15 Conducted Virtually	15 Las Vegas, NV 89117
16 Friday, November 15, 2024	16 (702) 333-0777
17 8:17 AM PST	17
18	18
19	19 ALSO PRESENT:
20	20 Jesse Castro, Videographer
21	21
22	22
23 Job No.: 561276	23
24 Pages: 1 - 71	24
25 Recorded By: Charlie McGrath, AAERT CER	25
2	4
1 Deposition of TOBY MCBRIDE, conducted	1 C O N T E N T S
2 virtually.	2 EXAMINATION OF TOBY MCBRIDE PAGE
3	3 By Mr. Harvey 6
4	4
5	5
6	6 E X H I B I T S
7	7 (Attached to transcript.)
8	8 DEPOSITION EXHIBIT PAGE
9	9 Exhibit 1 December 9, 2022 Email 50
10	10 Exhibit 2 Party Receivable Confirmation 64
11	11
12	12
13 Pursuant to notice, before Charlie McGrath,	13
14 AAERT CER, Notary Public in and for the State of	14
15 California.	15
16	16
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2 (5 to 8)

<p>5</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins media</p> <p>3 number 1 in the videotaped deposition of Toby</p> <p>4 McBride in the matter of Deppoleto v. Takeover</p> <p>5 Industries, Incorporated, et al., in the United</p> <p>6 States District Court for the District of Nevada,</p> <p>7 Case number 2:22CV02013.</p> <p>8 Today's date is November 15th, 2024.</p> <p>9 The time on the video monitor is 8:18 a.m. The</p> <p>10 remote videographer today is Jesse Castro,</p> <p>11 representing Planet Depos. All parties at this</p> <p>12 video deposition are attending remotely.</p> <p>13 Would Counsel please voice identify</p> <p>14 themselves and state whom they represent?</p> <p>15 MR. HARVEY: Patrick Harvey for the</p> <p>16 plaintiff.</p> <p>17 MR. BENNION: Don Bennion for Defendant</p> <p>18 Toby Maguire, who's being deposed today, as well</p> <p>19 as the -- the other five defendants. I'll list</p> <p>20 them if you want me to, but I think the caption</p> <p>21 speaks for itself.</p> <p>22 THE WITNESS: McBride.</p> <p>23 THE VIDEOGRAPHER: The court reporter</p> <p>24 today is Charlie McGrath, also representing Planet</p> <p>25 Depos. The witness may now be sworn.</p>	<p>7</p> <p>1 Q Good. Are you able to hear me okay?</p> <p>2 A Yes, sir.</p> <p>3 Q Okay. Good. Could you please state</p> <p>4 and spell your full name for us, please?</p> <p>5 A Toby McBride, T-O-B-Y, M-C-B-R-I-D-E.</p> <p>6 Q And what's your current address, sir?</p> <p>7 A 7426 -- I mean, 2948 Monticello Drive,</p> <p>8 Stockton, California, 95209.</p> <p>9 Q Any plans to move in the next year or</p> <p>10 so?</p> <p>11 A Not right now, no. No.</p> <p>12 Q Okay. Could you walk me through your</p> <p>13 education, please, just high school onward?</p> <p>14 A High School then straight to --</p> <p>15 straight to work, so --</p> <p>16 Q What year did you graduate high school?</p> <p>17 A '86.</p> <p>18 Q And where did you go to high school?</p> <p>19 A Kennedy -- John F. Kennedy.</p> <p>20 Q What state?</p> <p>21 A California.</p> <p>22 Q In Stockton?</p> <p>23 A No, Sacramento.</p> <p>24 Q Have you ever been deposed before today?</p> <p>25 A No, sir.</p>
<p>6</p> <p>1 COURT REPORTER: All righty. And I</p> <p>2 just have a short read-on statement because I'm in</p> <p>3 California.</p> <p>4 I am a notary authorized to administer</p> <p>5 oaths, and this deposition will be recorded by</p> <p>6 electronic means. All parties understand and</p> <p>7 agree that any certified transcript produced from</p> <p>8 the recording of this proceeding is intended for</p> <p>9 all uses permitted under applicable, procedural,</p> <p>10 and evidentiary rules and laws, and shall</p> <p>11 constitute written stipulation. The parties</p> <p>12 stipulate to the use and certification of this</p> <p>13 testimony consistent with applicable law of such.</p> <p>14 Hearing no objection, I will now swear the witness.</p> <p>15 All right, sir, if you could raise your</p> <p>16 right hand for me?</p> <p>17 Whereupon,</p> <p>18 TOBY MCBRIDE,</p> <p>19 being first duly sworn or affirmed to testify to</p> <p>20 the truth, the whole truth, and nothing but the</p> <p>21 truth, was examined and testified as follows:</p> <p>22 EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>23 BY MR. HARVEY:</p> <p>24 Q Good morning, Mr. McBride.</p> <p>25 A How are you?</p>	<p>8</p> <p>1 Q I know you have a new lawyer as of last</p> <p>2 night, but am I correct in assuming that you had a</p> <p>3 chance to talk to either him or your former lawyer</p> <p>4 and go over the deposition rules, things like</p> <p>5 answering out loud and things like that?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. So I don't need to go over those</p> <p>8 again?</p> <p>9 A No. We're good.</p> <p>10 Q Okay. Thanks.</p> <p>11 The one that I am going to reiterate is</p> <p>12 that if I ask a question and you don't understand</p> <p>13 any portion of it, feel free to let me know. I'm</p> <p>14 happy to rephrase it to make sure that we're on</p> <p>15 the same page before you answer; is that fair?</p> <p>16 A Yes, sir.</p> <p>17 Q And the flip side of that, though, is,</p> <p>18 if you answer one of my questions, I'm going to</p> <p>19 assume that you understood it; is that fair?</p> <p>20 A Yes, sir.</p> <p>21 Q Okay. Thank you.</p> <p>22 Did you review any documents to prepare</p> <p>23 for your deposition today?</p> <p>24 A Just the complaint, that's it.</p> <p>25 Q Nothing else?</p>

<p>9</p> <p>1 A No, sir.</p> <p>2 Q Okay. Can you walk me through,</p> <p>3 quickly, your employment history for the last 10</p> <p>4 years?</p> <p>5 A Ten would go back to when, '14?</p> <p>6 Q Yeah, ballpark.</p> <p>7 A So I -- I'm 32 years in the beverage</p> <p>8 industry, so I helped build brands on the national</p> <p>9 level through Budweiser and Miller distributors,</p> <p>10 national through retail. I'm one of three guys</p> <p>11 that does that throughout the nation.</p> <p>12 So I mean, before IGNITE, I'm trying to</p> <p>13 remember where I was at, but IGNITE was 2019. So</p> <p>14 over a year, Philip Dan's brand, resigned from</p> <p>15 that, and that's how kind of started Takeover.</p> <p>16 I've consulted here and there for the last 10, 15</p> <p>17 years, consulting meaning I get brought into a</p> <p>18 beverage company and either fix it or get it going.</p> <p>19 Q What was your title when you were</p> <p>20 working at IGNITE?</p> <p>21 A CEO of the beverage side.</p> <p>22 Q What was the other side?</p> <p>23 A They had vapes and stuff like that.</p> <p>24 And IGNITE was a THC marijuana company and then</p> <p>25 broke into energy drinks and alcohol. That's why</p>	<p>11</p> <p>1 at, where we'd consult for four or five months or</p> <p>2 I'd end up taking a position, so --</p> <p>3 Q And when you say consult, what</p> <p>4 specifically did you do?</p> <p>5 A So I would come in to a beverage</p> <p>6 company to see where they were at. If they were</p> <p>7 at the beginning stages, seeing the capital they</p> <p>8 had, make sure it was being appropriate in the</p> <p>9 right positions to whether it was production or --</p> <p>10 or marketing, and then trying to get them</p> <p>11 benchmarks, building them a foundation regionally,</p> <p>12 not nationally, to start building their beverage</p> <p>13 brand. Consulting also --</p> <p>14 Q You -- you -- oh, go ahead.</p> <p>15 A Go ahead. Also on --</p> <p>16 Q No, (crosstalk).</p> <p>17 A Yeah, also on formulations. Sorry.</p> <p>18 Q And when you say formulations, you mean</p> <p>19 you put together the ingredients?</p> <p>20 A We help -- we assist, yeah.</p> <p>21 Q Okay. Other than working for One Elite</p> <p>22 during that time frame, were you working for</p> <p>23 anyone else?</p> <p>24 A No.</p> <p>25 Q Okay. So then you started at IGNITE.</p>
<p>10</p> <p>1 I got brought in. I had nothing to do with the</p> <p>2 other side of it, separated.</p> <p>3 Q Where did you work before IGNITE?</p> <p>4 A I was just consulting for other</p> <p>5 beverage companies.</p> <p>6 Q Were you doing that through an LLC or</p> <p>7 something or --</p> <p>8 A Yeah, through -- Mike and I had a --</p> <p>9 had a company, One Elite.</p> <p>10 Q I'm sorry. I didn't hear what you</p> <p>11 said. What?</p> <p>12 A We had a company called One Elite that</p> <p>13 was an LLC.</p> <p>14 Q And when you say Mike, do you mean Mike</p> <p>15 Holley?</p> <p>16 A Yes, sir.</p> <p>17 Q How long were you consulting through</p> <p>18 One Elite, LLC?</p> <p>19 A I'm not even sure if it was an LLC --</p> <p>20 it was an LLC. I'm trying to remember if it was</p> <p>21 or not. We just consulted independently, so --</p> <p>22 Q For approximately how long before you</p> <p>23 started working at IGNITE?</p> <p>24 A Off and on for five or six years,</p> <p>25 depending on where -- what beverage company I was</p>	<p>12</p> <p>1 I think you said 2019; is that correct?</p> <p>2 A 2018, 2019, yeah.</p> <p>3 Q And you said you worked there for about</p> <p>4 a year?</p> <p>5 A Yeah.</p> <p>6 Q And why did you leave IGNITE?</p> <p>7 A I resigned. I don't want to really get</p> <p>8 into that. That's IGNITE's -- those are IGNITE's</p> <p>9 things. There was just things going on there that</p> <p>10 I walked away with my team and --</p> <p>11 Q Why did you walk away?</p> <p>12 A They were spending money in places that</p> <p>13 money shouldn't be spent in and we didn't want to</p> <p>14 have no part of it.</p> <p>15 Q And when you say they, who's they?</p> <p>16 A IGNITE.</p> <p>17 Q Who -- was there a particular</p> <p>18 individual?</p> <p>19 A I -- I don't want to -- that has</p> <p>20 nothing to do with this. I don't want to get into</p> <p>21 that. I resigned from that and --</p> <p>22 Q That's not how this works. You don't</p> <p>23 get to pick and choose what questions you answer.</p> <p>24 So why did you resign?</p> <p>25 A I resigned because I was on a board</p>

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4 (13 to 16)

<p>13</p> <p>1 call and heard things I shouldn't have heard, so 2 that's why I resigned. 3 Q You resigned? 4 A Yeah. 5 Q When did you resign? 6 A Not that I recall, I think it's 7 September. 8 Q Of 2019? 9 A Yeah. 10 Q And did you work anywhere else? 11 A 2020 -- 2020. Sorry. 12 Q September 2020 is when you resigned? 13 A Yeah. 14 Q Did you work anywhere else in between 15 there and working for Takeover? 16 A No. 17 Q And as I understand it, around January 18 2021, you, Mr. Holley, and Mr. Pavlik founded 19 Takeover; does that sound correct? 20 A Yes. 21 Q And can you just generally describe 22 what is Takeover Industries, Incorporated? 23 A It's just a beverage company. 24 Q What types of beverages? 25 A We were doing hydrogen water at that</p>	<p>15</p> <p>1 Q Anything else? 2 A -- and the gamer shot was. 3 Q Are any products still being sold under 4 the brand name NXT LVL? 5 A Not to my knowledge. 6 Q Does Takeover have any employees today? 7 A Not to my knowledge. 8 Q Are you still working for Takeover 9 today? 10 A No, I'm not. 11 Q When did you stop working for Takeover? 12 A January '23. 13 Q When Takeover was first founded in 14 early 2021, what was your title there? 15 A CEO. 16 Q Did you have that title the entire time 17 you were at Takeover? 18 A Yes, sir. 19 Q Why did you leave in January 2023? 20 A Stress level, too much -- 21 Q What do you mean by that? 22 A It was too much for me to handle at 23 that point. I needed to get my life back on track. 24 Q Too much -- 25 COURT REPORTER: Sorry. You cut out.</p>
<p>14</p> <p>1 time. 2 Q When you founded it? 3 A We founded the company and then came 4 into hydrogen water. 5 Q And you said, at time. Did you -- did 6 Takeover branch out into other beverages other 7 than hydrogen water? 8 A There was a shot down the road, but I 9 don't classify that as a beverage. 10 Q And you're referring to the gamer shot? 11 A Yes, sir. 12 Q When did Takeover start selling gamer 13 shots? 14 A May, June, that I recall. I can't 15 recall. I didn't -- I didn't -- I don't remember 16 that much about when that came. 17 Q When you say May, June, do you mean 18 May, June 2021? 19 A Yeah. 20 Q What is the brand NXT LVL, spelled 21 N-X-T, L-V-L? 22 A Part of Takeover. 23 Q What products were sold under the brand 24 name NXT LVL? 25 A Hydrogen water --</p>	<p>16</p> <p>1 BY MR. HARVEY: 2 Q Why was it too much for you to handle? 3 A Just too much drama, too much stress 4 drove me -- 5 Q Can you say a little bit more? Go 6 ahead. 7 A -- put me in a place I didn't want to 8 be, so I had to change my life, change my 9 perspective, fix my life. 10 Q Can you be a little bit more specific 11 about what you're talking about? 12 A No. 13 Q So something at Takeover is causing you 14 stress, but you can't delineate what that was? 15 A Reliving this is very, very difficult 16 for me, so my apologies. The stress of what we 17 got put through, the stress that Jason Tucker put 18 us through, the things that we had to go through 19 to get our company back made me -- had to walk 20 away. I still feel it to this day. 21 Q And what do you mean -- when you say 22 what you got put through, what specifically did 23 you -- 24 COURT REPORTER: I'm sorry. Your 25 question -- your question cut out again.</p>

<p>17</p> <p>1 MR. HARVEY: Are you hearing 2 (inaudible)? 3 COURT REPORTER: The -- that -- the 4 question cut out as well. 5 THE VIDEOGRAPHER: Counsel, I'm having 6 -- I'm having a little bit of difficulty. You are 7 cutting out maybe three or four times thus far. 8 MR. HARVEY: Hmm. My audio marker 9 shows that it's working every time I talk, on the 10 bottom left. 11 THE VIDEOGRAPHER: It'll stop -- it'll 12 -- it'll stop a little bit, Patrick, at the end. 13 It'll just pivot like -- like that, so -- 14 MR. HARVEY: Okay. Well, let me know 15 if -- if you don't hear the end of one of my 16 questions. We'll try and plow through it. I 17 don't really know what to do. This is the usual 18 microphone I use for these. 19 BY MR. HARVEY: 20 Q You said that the stress of what you 21 got put through. What specifically did you get 22 put through that you're referring to? 23 A I mean, the monotony of Jason Tucker 24 putting out lies on us, separating me and my 25 partner for a year with lies, having to relive</p>	<p>19</p> <p>1 after James's note was -- after we got out of 2 court in AriZona, I believe that piece went out on 3 us. I think it was November. I couldn't believe 4 -- BevNET still has it. You could pull it up. 5 That was all lies. 6 Q And this was in a publication? 7 A Yes, sir. BevNET is a -- is a place 8 where, in the beverage industry, we all go, so 9 distributors, suppliers, retailers. It's a 10 website for the beverage industry. 11 Q What did you -- I didn't what you 12 called it. What is it called? 13 A BevNET, B-E-V-N-E-T. So anybody that's 14 in the beverage industry, liquor, alcohol, 15 non-alcohol, beer, we all are on that website. So 16 when somebody -- BevNET is for, like, when brands 17 start or brands do press or get retail, they post 18 everything on BevNET. Pretty much just, like, a 19 -- it's updated every 30 minutes, I believe. 20 And so when press gets put out if a 21 company is bought, like, GHOST or something like 22 that that just sold for 990 million, that -- that 23 information is put on BevNET. If you're looking 24 for work, you go to BevNET. 25 So there's millions of people that see</p>
<p>18</p> <p>1 that again, having to deal with the attorneys and 2 trying to get our company back was just too much 3 for me. And I had the better -- 4 Q What specific -- oh, go ahead. 5 A No, I'm done. I'm done. 6 Q What specific lies did Mr. Tucker tell 7 about you? 8 A I -- I -- I -- I mean, everything there 9 is out there that he's put out there on social 10 media is -- the hit piece on BevNET, I mean, go 11 read it. I mean, I don't have time to -- there's 12 -- there's too much stuff that -- that he did that 13 it's -- you know, I just -- I don't want to relive 14 that stuff. It's just too much. I'm in a better 15 place in my life right now that -- reliving things 16 that this guy did to us is -- it's all in the 17 Court documents. It's all in. It's just the 18 slander, the -- makes me nauseous. 19 Q You said a hit piece? 20 A Pretty much a hit piece. A buddy of 21 his that used to work for us when we had Manny 22 Pacquiao as part of the company, a writer, I can't 23 remember his freaking name now, did a hit piece on 24 me, Mike, and Joe. That was all lies. They wrote 25 it, put it out the day that -- I believe after --</p>	<p>20</p> <p>1 that website, people in my industry that know me 2 very well. So when that hit piece went out, you 3 can imagine the phone calls that I got, but people 4 know who I am. I've built my reputation in this 5 industry very strong. I'm not one to do what was 6 -- was told that we did, so they all knew. So we 7 got our chance to rebuttal it, I believe, a month 8 and a half later, that showed the documents from 9 court that showed it was all lies. 10 Q Where did you start working after you 11 left Takeover in January of 2023? 12 A I consulted for a company out at Canada 13 called Exponent. 14 Q Called what? 15 A Exponent, E-X-P-O-N-E-N-T. 16 Q And from when to when did you do that? 17 A January until the end of the year. 18 Q Until the end of 2023? 19 A Just about, yeah. 20 Q Did you go to work after that? 21 A I've just been consulting and taking 22 time off. 23 Q And are you doing this through an LLC 24 or some other business? 25 A I do it through My Krazy Leprechaun.</p>

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6 (21 to 24)

<p>21</p> <p>1 Q Is that an LLC or what is it?</p> <p>2 A <b>Yeah. It's out in Nevada.</b></p> <p>3 Q Now, I apologize. I've been under the</p> <p>4 weather this whole week, so I'm probably going to</p> <p>5 be coughing quite a bit today.</p> <p>6 A <b>So have I.</b></p> <p>7 Q When you -- sorry to hear about that.</p> <p>8 A <b>Yeah.</b></p> <p>9 Q When you left in January 2023, how many</p> <p>10 employees did Takeover have at that point?</p> <p>11 A <b>Just Mike and Joe.</b></p> <p>12 Q And that's Mike Holley and Joe --</p> <p>13 A <b>Mike, CSO Joe Pavlik.</b></p> <p>14 Q What were their titles at that time?</p> <p>15 A <b>Mike was COO and Joe was the CSO, chief</b></p> <p>16 <b>science officer.</b></p> <p>17 Q And you said you don't know if Takeover</p> <p>18 has any employees today?</p> <p>19 A <b>I can't tell you. I don't -- I'm not</b></p> <p>20 <b>involved.</b></p> <p>21 Q Do you still work with either Mr.</p> <p>22 Holley or Mr. Pavlik?</p> <p>23 A <b>I do not.</b></p> <p>24 Q What was the most employees that</p> <p>25 Takeover ever had when you were working there?</p>	<p>23</p> <p>1 A <b>There it is.</b></p> <p>2 Q T-Z -- T-Z-A-N-E-T-A-T-O-S; does that</p> <p>3 sound right?</p> <p>4 A <b>That's -- yeah. You're -- that's</b></p> <p>5 <b>better than what I had.</b></p> <p>6 Q Okay. So that was one individual that</p> <p>7 you named that worked for Takeover. Who else</p> <p>8 worked there?</p> <p>9 A <b>Mike Costello.</b></p> <p>10 Q Anyone else?</p> <p>11 A <b>Kerby Fortner.</b></p> <p>12 Q What was Mr. Fortner's role?</p> <p>13 A <b>Gamer, social media, stuff like that.</b></p> <p>14 Q What was Mr. Costello's role?</p> <p>15 A <b>They're just sales guys.</b></p> <p>16 Q How about Mr. Tzanetatos?</p> <p>17 A <b>Mike and Mike were both the same, just</b></p> <p>18 <b>sales guys.</b></p> <p>19 Q Okay. Anyone else other than those</p> <p>20 three?</p> <p>21 A <b>David was our back end of the house</b></p> <p>22 <b>guy, does all the -- I forget David's last -- is</b></p> <p>23 <b>it Martin? You might have it. I don't -- I don't</b></p> <p>24 <b>-- I forget David's last name.</b></p> <p>25 Q What do you mean by back of the house</p>
<p>22</p> <p>1 A <b>Mike Tzanetatos --</b></p> <p>2 Q Do you mind -- for the court reporter?</p> <p>3 A <b>Say it again?</b></p> <p>4 Q Would you mind spelling that name that</p> <p>5 you just said for the court reporter?</p> <p>6 A <b>Oh, I couldn't -- can I -- can I look</b></p> <p>7 <b>on my phone? There's the only way I can tell you</b></p> <p>8 <b>Tzanetatos's -- his last name.</b></p> <p>9 Q Yeah, that's fine. Go ahead.</p> <p>10 A <b>One second. I believe it's a Greek</b></p> <p>11 <b>name. Mike -- and I could be butchering it when I</b></p> <p>12 <b>send it to you when I tell you what it is for</b></p> <p>13 <b>Mike's. Tzanetatos, T-S-O-N-A-T-A-T-O-S (sic),</b></p> <p>14 <b>Tzanetatos. I can't even remember how to spell</b></p> <p>15 <b>it. I'm trying to find it on my phone, so sorry.</b></p> <p>16 <b>And I can guarantee you I even butchered it on</b></p> <p>17 <b>here. I'm trying to find his e-mail. Mike T--</b></p> <p>18 Q Oh, I think I actually might have it</p> <p>19 here.</p> <p>20 A <b>You might. It should be in the Court</b></p> <p>21 <b>documents, Patrick. Sorry.</b></p> <p>22 Q T--</p> <p>23 A <b>I -- I butchered it -- I butchered it</b></p> <p>24 <b>when I had him as an employee, so apologies.</b></p> <p>25 Q T-Z-A--</p>	<p>24</p> <p>1 guy?</p> <p>2 A <b>Ordering supplies, EID, stuff we need</b></p> <p>3 <b>to do with chains or stores, he does all the</b></p> <p>4 <b>computer stuff for that -- shipping, receiving,</b></p> <p>5 <b>affiliates, stuff nobody else wants to do.</b></p> <p>6 Q Any others?</p> <p>7 A <b>No, sir. Well, me -- me, Mike, Joe,</b></p> <p>8 <b>and Tucker -- oh, and Tucker's wife, Melissa.</b></p> <p>9 <b>Sorry.</b></p> <p>10 Q Jason Tucker?</p> <p>11 A <b>Yes, sir.</b></p> <p>12 Q And then Melissa Tucker?</p> <p>13 A <b>Yes, sir.</b></p> <p>14 Q What were their roles?</p> <p>15 A <b>Melissa was allegedly marketing. And</b></p> <p>16 <b>then Jason was -- we made Jason president.</b></p> <p>17 Q Anyone else?</p> <p>18 A <b>No, that's it.</b></p> <p>19 Q What was Mr. Pavlik's role?</p> <p>20 A <b>Chief science officer.</b></p> <p>21 Q What was Mr. Holley's role?</p> <p>22 A <b>Operations.</b></p> <p>23 Q Anyone else?</p> <p>24 A <b>No.</b></p> <p>25 Q How did you become involved in Takeover</p>



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Conducted on November 15, 2024

7 (25 to 28)

<p>25</p> <p>1 Industries?</p> <p>2 <b>A After IGNITE, we were looking all to do</b></p> <p>3 <b>something again and because I was the only one at</b></p> <p>4 <b>IGNITE -- Mike and Joe weren't there. So just</b></p> <p>5 <b>took the -- do something together, and Joe had</b></p> <p>6 <b>found a shell and we thought we'd give it a go.</b></p> <p>7 Q When you said Joe found a shell</p> <p>8 (inaudible) by that?</p> <p>9 <b>A Well, he had a -- he had another guy, I</b></p> <p>10 <b>forget his name, that knew Ryan Schadel. Ryan</b></p> <p>11 <b>Schadel originally owned LTNC. And then we worked</b></p> <p>12 <b>a deal to -- in between at that time is Alex.</b></p> <p>13 <b>Alex Guerrero is Tom Brady's trainer.</b></p> <p>14 COURT REPORTER: I'm sorry, could you</p> <p>15 say the name one more time?</p> <p>16 THE WITNESS: Alex Guerrero.</p> <p>17 COURT REPORTER: Thank you.</p> <p>18 THE WITNESS: Which is Tom's trainer --</p> <p>19 Brady's trainer, and he wanted to speak to me</p> <p>20 about a -- a brand he had. So we flew out to</p> <p>21 Florida, sat down with Alex, and that's when I</p> <p>22 found out about hydrogen water. That's how</p> <p>23 hydrogen --</p> <p>24 BY MR. HARVEY:</p> <p>25 Q You said quite a bit -- you said quite</p>	<p>27</p> <p>1 formed?</p> <p>2 <b>A I was on calls, but I wasn't in the</b></p> <p>3 <b>weeds with Mike when they were doing it. As far</b></p> <p>4 <b>as percentages, what he -- the debt he owed on</b></p> <p>5 <b>LTNC, the accounting and all that stuff behind it,</b></p> <p>6 <b>I had nothing to do with that.</b></p> <p>7 Q Is it your understanding that Takeover</p> <p>8 is a subsidiary of Labor Smart?</p> <p>9 <b>A Takeover is under LTNC, so I'm not too</b></p> <p>10 <b>--</b></p> <p>11 Q But LTNC is -- but you told me a minute</p> <p>12 ago, I thought, LTNC was the parent company of</p> <p>13 Labor Smart, correct?</p> <p>14 <b>A That's how I believe they work. I</b></p> <p>15 <b>can't -- I don't -- not for sure about that, but</b></p> <p>16 <b>that's how I'm -- that's my understanding how it</b></p> <p>17 <b>works.</b></p> <p>18 Q And then is Takeover a subsidiary of</p> <p>19 just Labor Smart or is it only a subsidiary of</p> <p>20 LTNC?</p> <p>21 <b>A I believe it's only of -- of LTNC.</b></p> <p>22 <b>It's been a while. Sorry.</b></p> <p>23 Q And what were you saying about Mr. --</p> <p>24 your meeting with Mr. Guerrero? What -- can you</p> <p>25 say that again? What was the meeting about?</p>
<p>26</p> <p>1 a bit there. So Ryan Schadel, how do you spell</p> <p>2 his last name?</p> <p>3 <b>A Ryan -- Ryan, R-Y-A-N.</b></p> <p>4 Q Okay.</p> <p>5 <b>A Schadel -- I believe it -- Patrick,</b></p> <p>6 <b>it's S-C-H-A-D-E-L. He was the original owner of</b></p> <p>7 <b>LTNC, which was the company that we acquired.</b></p> <p>8 Q LTNC is also known as Labor Smart,</p> <p>9 correct?</p> <p>10 <b>A Yes, sir.</b></p> <p>11 Q That's a different company than</p> <p>12 Takeover Industries, correct?</p> <p>13 <b>A They're subsidiaries.</b></p> <p>14 Q Which one is a subsidiary of which?</p> <p>15 <b>A I believe they're both under Labor --</b></p> <p>16 <b>they're both under LTNC. Labor Smart was Ryan's</b></p> <p>17 <b>company.</b></p> <p>18 Q So am I hearing you correctly that LTNC</p> <p>19 was the parent company and then Labor Smart was a</p> <p>20 subsidiary of LTNC?</p> <p>21 <b>A I believe that's -- that and Takeover,</b></p> <p>22 <b>that's how it broke down. I can't be for sure on</b></p> <p>23 <b>that, but --</b></p> <p>24 Q Were you involved with Mr. Schadel at</p> <p>25 all when Takeover Industries, Incorporated, was</p>	<p>28</p> <p>1 <b>A Well, that -- that -- he had me -- he</b></p> <p>2 <b>had us come there and look at a product that he</b></p> <p>3 <b>wanted me to see if I could do. So that's when</b></p> <p>4 <b>hydrogen water was put on the table. And I tried</b></p> <p>5 <b>it and I asked him what it was.</b></p> <p>6 <b>He told me what it was. He told me who</b></p> <p>7 <b>he was training with it. He told me this is why</b></p> <p>8 <b>people's careers are extending. That's why Tom</b></p> <p>9 <b>was playing as long as he was playing. Serena and</b></p> <p>10 <b>LeBron playing into their late stages of their</b></p> <p>11 <b>careers is because of hydrogen water. So he asked</b></p> <p>12 <b>me if I could figure out a way to do it better,</b></p> <p>13 <b>and we --</b></p> <p>14 Q When was this meeting with -- I'm</p> <p>15 sorry. Go ahead.</p> <p>16 <b>A December, before we started --</b></p> <p>17 Q Of 2020?</p> <p>18 <b>A Yeah, before we started, yeah --</b></p> <p>19 <b>November, December.</b></p> <p>20 Q Was he involved with the formation of</p> <p>21 Takeover?</p> <p>22 <b>A No. Alex had nothing to do with the</b></p> <p>23 <b>company.</b></p> <p>24 Q So was he asking you to start a company</p> <p>25 for him?</p>



<p>29</p> <p>1 A He wanted to see if there was a way I 2 could make the hydrogen water better than the way 3 they were getting it from Texas. And then we were 4 going to bring Alex involved with Takeover at one 5 time, but Ryan and those guys -- Ryan had leaked 6 it somehow, and that kind of killed that off. 7 Q Why would Ryan leaking it have killed 8 that off? 9 A I -- because it got to the -- it got to 10 the shareholders and then they thought Brady was 11 involved when he was never involved. Alex was 12 going to be involved in the early stages. And 13 then it got out to the shareholders. And if you 14 know anything about a public company, that once it 15 gets out, you know, Tom Brady is now an owner, you 16 know, then that got back to us pretty quick. 17 Q When was this? 18 A Same year, 2021. 19 Q Beginning of 2021? 20 A Yeah, of March, April. 21 Q Other than CEO, have you held any other 22 officer positions at Takeover? 23 A No. 24 Q Were you a board member of Takeover? 25 A Yes.</p>	<p>31</p> <p>1 Q How specifically were you convinced 2 that he was lying? 3 A Through my original attorneys and 4 through Mike's lawyers and through the AriZona 5 case, that he was lying. 6 Q What was your -- did you have a 7 specific title as a board member of Takeover, 8 chairman or anything like that? 9 A I don't recall. 10 Q What were your duties and 11 responsibilities as a board member of Takeover? 12 A I don't recall what was on there. 13 Q Did you receive compensation from 14 Takeover? 15 A I had a salary, yes. 16 Q What was it? 17 A 240 a year. 18 Q Was that for the whole time or did that 19 go up or -- 20 A No, the whole time. 21 Q And were you paid on a biweekly basis 22 or how were you paid? 23 A Monthly. 24 Q And you continued to receive that until 25 you -- January 2023?</p>
<p>30</p> <p>1 Q From when to when? 2 A The start until January of '23. 3 Q Who else was on the board during that 4 time? 5 A Mike, Joe, Jason. 6 Q The whole time? 7 A No. For the last -- for 2022, Mike was 8 taken off. It was just me, Joe, and Jason. 9 Q Why was Mr. Holley taken off in 2022? 10 A Because of Jason Tucker's lies. 11 Q What do you mean by that? 12 A Jason Tucker made a lot of accusations 13 about my ex-partner and had us believing that he 14 did -- 15 Q What, specifically? 16 A Taking money, which he never did. 17 Q Were you responsible for finances while 18 you were working at Takeover? 19 A My name has never been on a bank 20 account in 20 years with any of my partners. 21 Q So how do you know that Mr. Tucker was 22 lying about whether Mr. Holley took money? 23 A I found that out that he was lying when 24 we found out about all this stuff, so October of 25 2023 -- or '22.</p>	<p>32</p> <p>1 A No. That's -- I stopped in August, 2 September. 3 Q Of -- 4 A '23 -- '22. 5 Q Why did you stop getting paid in 6 September or August of 2022? 7 A Again, Jason Tucker's finagling of 8 maneuvering documents and making up lies, which 9 was -- 10 Q You were CEO, correct? 11 A Yes, sir. 12 Q So you outranked Mr. Tucker, correct? 13 A We all worked on a level playing field, 14 but yeah. 15 Q Because he was just the president, 16 correct? 17 A Yes, sir. 18 Q And so how did he specifically going 19 about -- or go about getting your salary to be not 20 paid? 21 A By bringing him -- his attorney at the 22 beginning, which was his attorney at Battleship 23 Stance, Eric Borgard, number one. Eric was -- 24 Eric's -- Eric's position was just to be an IP 25 attorney, just come in and protect our IP. That's</p>

<p>33</p> <p>1 what Battleship Stance is, Jason's Company. It's 2 a company that -- it's an IP company that protects 3 IP, but we found out a lot more about that. 4 So he brought Eric in. We didn't have 5 counsel at that time. So Eric came in and did 6 some IP work for us because we were still securing 7 the NXT LVL name, because it was in competition 8 with another water brand out of New York, so we 9 were negotiating the terms with that. So Eric was 10 -- and was supposed to be taking care of that. 11 And then all of a sudden he's our -- our, you 12 know, company lawyer. 13 So with that and with him putting the 14 case on Mike, which was BS, he then brought in 15 another attorneys, I forget her name, out of 16 AriZona, another personal attorney for him that 17 has his benefit in mind. So them all three 18 together coordinating their efforts to do what 19 they had to do what they did, which was to get us 20 out, which was to separate me and Mike, number one. 21 Q I'm still not following how any of that 22 would have resulted in you not getting a paycheck. 23 How did -- how did he specifically stop you from 24 getting a paycheck when you were the CEO? 25 A Because they alleged that I -- I was</p>	<p>35</p> <p>1 mean, it's a whole -- I really hate reliving this 2 thing because that's just a place I don't want to 3 go back to, so my apologies. It put me in a place 4 where I contemplated suicide at one point because 5 of what he was doing to me and pushing me into a 6 corner. So I stepped away for 30 days, really, a 7 couple weeks, until we figured out what was going 8 on, what his plan was, and then the judge 9 overturned it -- 10 Q When was this -- judge overturned it? 11 A In AriZona -- whenever the AriZona -- 12 whenever everybody was in AriZona. I wasn't 13 there. I believe it was October. 14 Q Where you were gone for 30 days -- 15 A I believe it was October. I believe it 16 was November. So the whole month of October, I 17 was gone. 18 Q So then when you came back, why didn't 19 she start getting paid then? 20 A Me and Mike got back together. We had 21 to go seize the account -- took two weeks for us 22 to seize the account. In that time, money was 23 being spent out of that account by Jason. Money 24 was being moved around by Jason. Over 75,000 was 25 put into an escrow account into his attorney's</p>
<p>34</p> <p>1 spending money and they wanted to suspend me for 2 30 days, which was overturned by the AriZona 3 Court, because I didn't do anything. And that's 4 when we came back in and took the company back 5 from Jason. Jason was trying to change my bylaws 6 and change notes and tried to take the company 7 private behind my back and Joe's back, without our 8 knowledge. 9 Anything that we had to do as a 10 company, Patrick, me, Joe, and Jason had to agree. 11 That's it, real simple. Let's take the Dollar 12 General deal. I said no to that in February of 13 2022. They wanted to do a Dollar General deal, 14 Mike and -- Costello and Tzanetatos, and I said, 15 no with the shots; too much money, too much risk. 16 You have to pay slotting fees. There's over a 17 million dollars in slotting fees you have to have. 18 We're not a Dollar General brand. Well, that deal 19 kept going on behind my back without my knowledge 20 and Joe's knowledge, with Jason. 21 Q So you said Mr. Tucker wanted to 22 suspend you for 30 days. Did he suspend you for 23 30 days? 24 A It was forced. Yeah. I was back into 25 a corner and it's better for the shareholders. I</p>	<p>36</p> <p>1 name, which is illegal, that we got back. 2 So the account was drained, so we 3 didn't pull anything. We were just trying to get 4 the company back and figuring out what we were 5 going to do, you know? He had -- he had spent the 6 money that -- on making all these shots, which 7 none of us agreed to. I mean, there was \$800,000 8 in shots that they spent money on with shippers 9 and stuff that was sitting there going to Dollar 10 General, that the deal was dead. So this is why 11 we said no to it in February, because we knew that 12 it was a bad idea, to not do this, and they moved 13 forward with it. 14 So the money that came into the company 15 from when he took over the account, I don't know 16 anything about. I've never seen it, and my name 17 was never -- I never seen a statement. I never 18 was attached to it. For six months, I was -- 19 Jennifer was trying to get me to get on the 20 account with Jason. He always had an excuse, so -- 21 And we had a deal with the PFL at that 22 time, so I was doing the events with the PFL and 23 furthering our brand with the PFL and athletes and 24 stuff like that, so -- while at that time, he was 25 just plotting his moves.</p>

<p>37</p> <p>1 Q So after you stopped getting paid in 2 September or August of 2022, you never received 3 any other compensation from Takeover? 4 A No. No. I had my shares. 5 Q You mentioned -- I'm sorry. What? 6 A I had my shares in the company, but 7 I've never moved a share during a day in my life, 8 so -- they weren't worth anything. 9 Q You still have your shares? 10 A No. 11 Q When did you -- well, how did you -- 12 when did you stop having them? 13 A February of '23. 14 Q What did you do with them? 15 A Sold them back to the company and then 16 that was it. 17 Q How many shares did you have? 18 A Just under half a billion -- half a 19 billion shares. I had originally two point 20 billion -- 2 -- 2 billion shares, but 1.5 billion 21 went to lies that Jason perpetuated that said they 22 were going to go somewhere else that they didn't 23 go to. 24 They were supposed to go to pay off 25 Manny Pacquiao debt, and that's not what happened.</p>	<p>39</p> <p>1 Pacquiao. They went to Jason Tucker. They went 2 to Melissa Tucker. They went to Deppoleto. They 3 went to -- to Anthony Pettis. They went to Josh. 4 My shares did not go to Manny Pacquiao. So my 5 shares were used for other things, not to go to 6 Manny Pacquiao. 7 Q But Takeover wasn't a publicly traded 8 company, correct? 9 A Well, it was part of LTNC, so however 10 that works. 11 Q How much did you receive for the 500 12 million shares when you sold them back in February 13 2023? 14 A Just under -- probably just under 30 15 grand. 16 Q You mentioned it a couple times, but 17 Labor Smart -- what is Labor Smart? 18 A I believe that was part of Schadel's 19 company. I can't be -- I'm not too sure, Patrick. 20 Sorry. 21 Q It sounds like you weren't really 22 responsible for -- 23 A No. 24 Q -- figuring out or executing which -- 25 between Labor Smart, LTNC, and Takeover in the</p>
<p>38</p> <p>1 That's the only reason why I gave up my 1.5 2 million shares -- billion shares. 3 Q When did you give up the 1.5 billion? 4 A Jason had contacted me February or 5 March of 2022 and said that, you know, hey, we got 6 to pay Manny and, you know, let's use your shares 7 to give to him. We'll give him -- we'll give them 8 back to you. 9 Of course. You know, it's for the 10 shareholders. It's for the company. If their -- 11 shares weren't worth anything right then, so it's 12 like, yeah. If it's going to help subsidize and 13 make him happy, no problem. Did it in the drop of 14 a hat; would've done it for anybody that would've 15 had a note or would've been a part of the company. 16 If I'm going to get them back down later, no 17 problem. If it's going to help us leverage, no 18 problem. 19 Q Now, as I understood it, these were 20 shares -- you're talking about shares. They 21 weren't actually shares in Takeover. They were 22 shares in Labor Smart; is that correct? 23 A Yeah. I'm not too sure how all that -- 24 you know, that whole thing worked. I mean, but 25 eventually, my shares did not go to Manny</p>	<p>40</p> <p>1 interlap -- or overlap between them. It sounds 2 like that wasn't really your responsibility; is 3 that fair? 4 A Yes, sir. 5 Q Whose responsibility was it from the 6 Takeover side? 7 A I wouldn't -- I wouldn't say 8 responsibility, but -- 9 MR. BENNION: I'm going to state an 10 objection. 11 Toby -- Toby -- 12 I'm going to state an objection to the 13 extent it may call for a legal conclusion or 14 speculation. 15 Go ahead. 16 BY MR. HARVEY: 17 Q You can go ahead and answer. 18 A Can you -- want to say it again, 19 Patrick? Sorry. 20 Q Sure. I had asked you a moment ago if 21 you were the one who was responsible for the 22 interaction between Labor Smart, LTNC, Takeover, 23 shares, things of that nature, and you said, no, 24 that wasn't you. 25 And then my question was, who from</p>

Transcript of Toby McBride  
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11 (41 to 44)

<p>41</p> <p>1 Takeover was responsible for those types of things?</p> <p>2 <b>A And like I said, I don't know if it's</b></p> <p>3 <b>responsible, but Mike was -- Mike was more on top</b></p> <p>4 <b>of it. And Jason -- well, Jason -- at that time,</b></p> <p>5 <b>Mike was out of the picture, so Jason ran all of</b></p> <p>6 <b>it at that time.</b></p> <p>7 Q When to when was Mike out of Takeover?</p> <p>8 <b>A November of 2021 -- no, '22, yeah. No,</b></p> <p>9 <b>wait -- yeah, '21 -- November of '21, when he was</b></p> <p>10 <b>sick.</b></p> <p>11 Q That's when he first left Takeover?</p> <p>12 <b>A Well, Jason pushed him out.</b></p> <p>13 Q And then when did Mr. Holley come back</p> <p>14 to Takeover?</p> <p>15 <b>A '22, October -- at the end of October,</b></p> <p>16 <b>beginning of November is when we figured</b></p> <p>17 <b>everything out.</b></p> <p>18 Q Have you ever held any positions with</p> <p>19 Labor Smart?</p> <p>20 <b>A Not that I'm aware of, no.</b></p> <p>21 Q And as you sit here today, do you know</p> <p>22 whether Labor Smart is the majority shareholder of</p> <p>23 Takeover Industries, Inc.?</p> <p>24 <b>A I couldn't tell you. I'm out of it.</b></p> <p>25 Q Do you know if it ever was?</p>	<p>43</p> <p>1 <b>A No, sir.</b></p> <p>2 Q Did you ever ask to be part of it?</p> <p>3 <b>A No, sir.</b></p> <p>4 Q Do you know how Next Gen Beverages</p> <p>5 obtained its startup capital?</p> <p>6 <b>A No, sir.</b></p> <p>7 Q Do you know what type of products Next</p> <p>8 Gen Beverages sells?</p> <p>9 <b>A All I've seen is the hydrogen water,</b></p> <p>10 <b>and briefly, flavors.</b></p> <p>11 Q And when you said seen, did you mean</p> <p>12 you saw them online?</p> <p>13 <b>A I -- I believe so. On -- well, on</b></p> <p>14 <b>social media. Just so you know, I try to stay out</b></p> <p>15 <b>of -- I'm too busy doing what I do, so I try to</b></p> <p>16 <b>stay out of what they're doing and --</b></p> <p>17 COURT REPORTER: Could you say the name</p> <p>18 one more time? You said Sillwell Media?</p> <p>19 THE WITNESS: Oh, social. Sorry.</p> <p>20 Like, Instagram -- yeah.</p> <p>21 COURT REPORTER: Thank you.</p> <p>22 THE WITNESS: Sorry.</p> <p>23 Shareholders --</p> <p>24 BY MR. HARVEY:</p> <p>25 Q To your knowledge, is there any</p>
<p>42</p> <p>1 <b>A I'm not too sure. I don't recall.</b></p> <p>2 Q What is Next Gen Beverages, LLC?</p> <p>3 <b>A I believe that's their -- that --</b></p> <p>4 <b>that's their company.</b></p> <p>5 Q Who's they?</p> <p>6 <b>A I believe that's Tom and Mike's</b></p> <p>7 <b>company. I have nothing to do with that.</b></p> <p>8 Q Tom Zarro?</p> <p>9 <b>A Yeah.</b></p> <p>10 Q Z-A-R-R-O?</p> <p>11 <b>A I believe so.</b></p> <p>12 Q And Mike Holley?</p> <p>13 <b>A Mm-hmm.</b></p> <p>14 COURT REPORTER: I'm sorry --</p> <p>15 BY MR. HARVEY:</p> <p>16 Q Yes?</p> <p>17 <b>A Yes.</b></p> <p>18 Q Thanks. So I think you just said it,</p> <p>19 but I want to make sure. Have you ever had any</p> <p>20 involvement with Next Gen Beverages?</p> <p>21 <b>A No. No.</b></p> <p>22 Q Have you ever received any compensation</p> <p>23 from Next Gen Beverages?</p> <p>24 <b>A No, sir.</b></p> <p>25 Q Did they ask you to be part of it?</p>	<p>44</p> <p>1 difference -- I'm sorry. What?</p> <p>2 <b>A Shareholders will post stuff on social</b></p> <p>3 <b>media, and I'll see it that way.</b></p> <p>4 Q To your knowledge, is there any</p> <p>5 difference between the hydrogen water that Next</p> <p>6 Gen Beverages is selling and the hydrogen water</p> <p>7 that Takeover was selling?</p> <p>8 <b>A No, no idea. I couldn't tell you.</b></p> <p>9 <b>Like I said, I'm not involved. I haven't tried</b></p> <p>10 <b>it. I haven't -- I've just seen pictures. Every</b></p> <p>11 <b>brand is different. Every -- SoBe, Snapple, it's</b></p> <p>12 <b>all different. You could say it's the same thing,</b></p> <p>13 <b>but it's different, so --</b></p> <p>14 Q Do you know whether Takeover</p> <p>15 transferred any assets to Next Gen Beverages?</p> <p>16 <b>A No.</b></p> <p>17 Q Do you know whether Takeover</p> <p>18 transferred any trades to Next Gen Beverages?</p> <p>19 <b>A No, sir.</b></p> <p>20 Q Do you know whether Next Gen entered</p> <p>21 into any agreements with Manny Pacquiao?</p> <p>22 <b>A No, sir.</b></p> <p>23 Q Do you know whether Next Gen Beverages</p> <p>24 sold NXT LVL products on the Next Gen and/or</p> <p>25 LinkedIn -- or LOCK'DIN website?</p>

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12 (45 to 48)

<p>45</p> <p>1 A No, sir. Like I said, Patrick, I'm --</p> <p>2 I have nothing to do with that to -- nor do I pay</p> <p>3 attention to it unless I'm on social media and see</p> <p>4 --</p> <p>5 Q Have you ever promote -- oh, I'm sorry.</p> <p>6 Go ahead.</p> <p>7 A Unless I see it that way, that's the</p> <p>8 only way I would know.</p> <p>9 Q Have you ever promoted any Next Gen</p> <p>10 Beverages or LOCK'DIN products on your personal</p> <p>11 social media channels?</p> <p>12 A No.</p> <p>13 Q When did you first meet Mr. Holley?</p> <p>14 A Oh, my God, way back.</p> <p>15 Q Ballpark is fine.</p> <p>16 A Way back when we did AriZona, 2010,</p> <p>17 2011, 2012, right in between -- somewhere in</p> <p>18 there. Sorry. That was a long time ago. It's</p> <p>19 over 20 --</p> <p>20 Q What were the --</p> <p>21 A Over 20 years, Patrick.</p> <p>22 Q What were the circumstances?</p> <p>23 A He was working at AriZona and I got</p> <p>24 brought in.</p> <p>25 Q AriZona, the tea company?</p>	<p>47</p> <p>1 after that. I could be off three or four years on</p> <p>2 that. Sorry, Patrick -- been a while.</p> <p>3 Q No problem. What were the</p> <p>4 circumstances under which you met Mr. Pavlik?</p> <p>5 A So we got brought into a company called</p> <p>6 -- oh, my God. What was it called? It was in</p> <p>7 Florida. It was a supplement brand. E -- god,</p> <p>8 what was the name of the brand? Wasn't -- it</p> <p>9 wasn't Evolve.</p> <p>10 E2, that was it, so the -- the letter E</p> <p>11 and then the number 2. So it was a -- it was a</p> <p>12 drink that had, was it 8 ounces, that had a lot of</p> <p>13 beta-alanine. So if you're working out, it would</p> <p>14 wake up your -- it would -- beta-alanine makes you</p> <p>15 tingle. So what it's -- when it's tingling, it's</p> <p>16 waking up your blood vessels that have died.</p> <p>17 So they made a brand called E2 that had</p> <p>18 a lot of beta-alanine in it. At that time was a</p> <p>19 lot because it would make you feel like you're on</p> <p>20 fire, make you feel like you were going into a</p> <p>21 different place, so -- and we came in to show E2</p> <p>22 and tried to get a distribution. That's how we</p> <p>23 met Joe.</p> <p>24 Q When did you first meet Tom Zarro?</p> <p>25 A When he originally did his note, I was</p>
<p>46</p> <p>1 A Yes, sir.</p> <p>2 Q And was that your consulting firm?</p> <p>3 A No. It was -- I got brought into</p> <p>4 AriZona, so I got brought into AriZona iced tea as</p> <p>5 an -- as an employee.</p> <p>6 Q Okay. And did you two work together</p> <p>7 then?</p> <p>8 A Yeah. Yeah.</p> <p>9 Q What was he doing at AriZona at that</p> <p>10 time?</p> <p>11 A Sales here in Northern California.</p> <p>12 Q And were you doing marketing?</p> <p>13 A No. I was doing sales, too, to come in</p> <p>14 and -- that's the year that the 99 cent can came</p> <p>15 out. So I came in to increase their market share</p> <p>16 on the West Coast.</p> <p>17 Q When did you first meet Joseph Pavlik?</p> <p>18 A Oh, God, a couple of -- probably a year</p> <p>19 or two after that. So Mike was early 2006, 2007.</p> <p>20 Mike -- because it has been over 20 years with</p> <p>21 Mike. So Joe would've been around 2010, yeah.</p> <p>22 No, not even 2010. Probably '05 or '06 with Mike</p> <p>23 -- 2005, 2006 with Mike. And then Joe, probably</p> <p>24 -- Mike -- yeah, 2009 with Mike, and then Joe,</p> <p>25 probably a year after -- Joe, probably a year</p>	<p>48</p> <p>1 on the call, but --</p> <p>2 Q When was that?</p> <p>3 A Early '21, when we started.</p> <p>4 Q And when you say his note, do you mean</p> <p>5 he had a promissory note with Takeover?</p> <p>6 A Yes, sir.</p> <p>7 Q Did you know him at all before that</p> <p>8 call?</p> <p>9 A No, sir.</p> <p>10 Q How did Takeover come into contact with</p> <p>11 him, such that it was giving him a note?</p> <p>12 A I believe through Ryan Schadel.</p> <p>13 Q How much was his note worth?</p> <p>14 A I don't recall.</p> <p>15 Q And from that point, going forward</p> <p>16 after that, Mr. Zarro took kind of a role within</p> <p>17 Takeover, correct?</p> <p>18 A No, sir. There was no role for Tom</p> <p>19 Zarro.</p> <p>20 Q Was he ever on the board?</p> <p>21 A Not at -- no, not to my -- not to my</p> <p>22 knowledge, no.</p> <p>23 Q Okay. When did you first meet Ryan</p> <p>24 Schadel?</p> <p>25 A When we started the company, early</p>



Transcript of Toby McBride  
Conducted on November 15, 2024

13 (49 to 52)

<p>49</p> <p>1 <b>January, February of '21.</b></p> <p>2 Q What were the circumstances under which</p> <p>3 you met him?</p> <p>4 <b>A Through Joe's contact -- through Joe's</b></p> <p>5 <b>contact. That's how we got to Ryan. Ryan is the</b></p> <p>6 <b>original one that had LTNC.</b></p> <p>7 Q Was Mr. Schadel ever an employee,</p> <p>8 agent, officer, director of Takeover?</p> <p>9 <b>A No, sir.</b></p> <p>10 Q Do you know whether he has any of those</p> <p>11 positions with Next Gen?</p> <p>12 <b>A Not to my -- I -- I couldn't tell you.</b></p> <p>13 <b>I'm not -- I'm not involved, especially with --</b></p> <p>14 Q And you said Mike Tzanetatos was a</p> <p>15 Takeover employee, correct?</p> <p>16 <b>A Yes, sir.</b></p> <p>17 Q And you said he was a former sales</p> <p>18 representative; is that true?</p> <p>19 <b>A Yes, sir.</b></p> <p>20 Q Do you know whether he's working for</p> <p>21 Takeover today?</p> <p>22 <b>A No, sir.</b></p> <p>23 Q Do you know whether he works for Next</p> <p>24 Gen today?</p> <p>25 <b>A He does not. He's -- he works for a --</b></p>	<p>51</p> <p>1 Q Did you make the decision to terminate</p> <p>2 Mr. Tzanetatos?</p> <p>3 <b>A No. It -- it -- it hurt us to even</b></p> <p>4 <b>have to let those guys go because we couldn't</b></p> <p>5 <b>afford to keep them anymore.</b></p> <p>6 Q But did you make the decision to</p> <p>7 terminate him?</p> <p>8 <b>A Well, we laid them off, so me, Mike,</b></p> <p>9 <b>and Joe and the attorneys.</b></p> <p>10 Q And why did you lay him off?</p> <p>11 <b>A We couldn't -- we had no revenue to</b></p> <p>12 <b>keep them there, or we would've kept them. This</b></p> <p>13 <b>sucks to have to relive this. Sorry, Patrick.</b></p> <p>14 Q Did Takeover terminate any other</p> <p>15 employees other than Mr. Tzanetatos around this</p> <p>16 time frame?</p> <p>17 <b>A Costello and Tzanetatos were at the</b></p> <p>18 <b>same time.</b></p> <p>19 Q Who took over for sales after Mr.</p> <p>20 Tzanetatos and Mr. Costello were terminated?</p> <p>21 <b>A Well, I mean, we were too busy with</b></p> <p>22 <b>figuring out what Jason did, so sales were off the</b></p> <p>23 <b>table at that point. We were trying to figure out</b></p> <p>24 <b>what was going on and what Jason had gotten the</b></p> <p>25 <b>company into, and unraveling that onion was pretty</b></p>
<p>50</p> <p>1 <b>a -- a jam company -- a jelly company.</b></p> <p>2 Q Okay. I'm going to share my screen</p> <p>3 with you and show you an exhibit.</p> <p>4 Are you able to see that? Are you able</p> <p>5 to see my screen, Mr. McBride?</p> <p>6 <b>A Yeah, I can see it. Sorry about that.</b></p> <p>7 <b>Yes, sir.</b></p> <p>8 Q No problem.</p> <p>9 MR. HARVEY: So we'll mark this as</p> <p>10 Exhibit 1.</p> <p>11 (EXHIBIT 1 MARKED)</p> <p>12 BY MR. HARVEY:</p> <p>13 Q And this is a December 9, 2022 e-mail</p> <p>14 from you to Mr. Tzanetatos, Jennifer Reiter, Joe</p> <p>15 Pavlik, and Mike Holley, correct?</p> <p>16 <b>A Yes, sir.</b></p> <p>17 Q And you say, Mike, unfortunately, at</p> <p>18 this time, your employment with Takeover</p> <p>19 Industries is laying you off, correct?</p> <p>20 <b>A Yes, sir.</b></p> <p>21 Q Do you recognize this e-mail?</p> <p>22 <b>A Yes.</b></p> <p>23 Q And at the time, was</p> <p>24 Toby@TakeoverInd.com your e-mail address?</p> <p>25 <b>A Yes, sir.</b></p>	<p>52</p> <p>1 <b>much our full-time job.</b></p> <p>2 Q How long did it take you to get that</p> <p>3 done?</p> <p>4 <b>A Took us almost --</b></p> <p>5 MR. BENNION: State an -- I'm going to</p> <p>6 state an objection to the extent it may call for</p> <p>7 speculation. Vague and ambiguous.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: It took us almost three</p> <p>10 months to figure out what -- everything had</p> <p>11 happened in that year that Jason was left alone to</p> <p>12 conspire what he did. I mean, we seized his</p> <p>13 emails --</p> <p>14 BY MR. HARVEY:</p> <p>15 Q After that three months, did Takeover</p> <p>16 begin trying to sell again?</p> <p>17 <b>A I had -- I had stepped away at that</b></p> <p>18 <b>point. I had had enough, so --</b></p> <p>19 Q Shortly thereafter?</p> <p>20 <b>A Yes, sir.</b></p> <p>21 Q To your knowledge, did Mr. Tzanetatos</p> <p>22 ever go back to work for Takeover after this</p> <p>23 December 2022 termination?</p> <p>24 <b>A I don't believe so.</b></p> <p>25 Q To your knowledge, did Mr. Costello</p>



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14 (53 to 56)

<p>53</p> <p>1 ever go back to Takeover?</p> <p>2 <b>A I don't believe so. They all found</b></p> <p>3 <b>jobs right after, thank God.</b></p> <p>4 Q Do you know whether either of them went</p> <p>5 to go work for Next Gen?</p> <p>6 <b>A No, sir.</b></p> <p>7 Q Who is Maurice Salem?</p> <p>8 <b>A I couldn't tell you who that was if my</b></p> <p>9 <b>life depended on it.</b></p> <p>10 Q Okay. And you mentioned an individual</p> <p>11 named Kerby Fortner before, correct?</p> <p>12 <b>A Yes, sir.</b></p> <p>13 Q And that's Kerby, K-E-R-B-Y, correct?</p> <p>14 <b>A I believe so.</b></p> <p>15 Q And what was his role, did you say,</p> <p>16 with Takeover?</p> <p>17 <b>A Social media, the gamer -- the gamer</b></p> <p>18 <b>stuff, kind of watching over that.</b></p> <p>19 Q Was he still working at Takeover by the</p> <p>20 time you left in January 2023?</p> <p>21 <b>A No.</b></p> <p>22 Q When did he leave Takeover?</p> <p>23 <b>A He was there before I was -- before I</b></p> <p>24 <b>was suspended and then I don't know what happened</b></p> <p>25 <b>after that.</b></p>	<p>55</p> <p>1 <b>of what Anthony was doing, so that's how that kind</b></p> <p>2 <b>of -- that's the connection. I've known Anthony</b></p> <p>3 <b>for a long time, 14 years.</b></p> <p>4 Q When did you first -- first meet</p> <p>5 Anthony Pettis?</p> <p>6 <b>A Oh, God, Sacramento when I was running</b></p> <p>7 <b>Xyience with the UFC, so him and Duke Roufus.</b></p> <p>8 <b>Duke had him --</b></p> <p>9 Q Sacramento --</p> <p>10 <b>A Sacramento had a fight with the UFC. I</b></p> <p>11 <b>was running Xyience at that time, which was the</b></p> <p>12 <b>energy drink on the met. And Duke Roufus brought</b></p> <p>13 <b>Anthony out and Sergio. Sergio was, like 15, 14,</b></p> <p>14 <b>whatever he was then. And they were -- they</b></p> <p>15 <b>needed a gym to work out. So I got Urijah's Gym</b></p> <p>16 <b>for them to work out for all the UFC guys to come</b></p> <p>17 <b>out and work out at Urijah's Gym. That's how I</b></p> <p>18 <b>met Duke Roufus and met Anthony, and then it just</b></p> <p>19 <b>prolonged from there. That's when Anthony first</b></p> <p>20 <b>came into the UFC -- or WEC, sorry, at that time.</b></p> <p>21 Q And so what was Mr. Pettis's</p> <p>22 relationship with Takeover?</p> <p>23 <b>A See -- Pettis? Zero. Anthony had no</b></p> <p>24 <b>-- he was just an investor.</b></p> <p>25 Q When did he first invest in Takeover?</p>
<p>54</p> <p>1 Q He was gone by the time you came back?</p> <p>2 <b>A He wasn't on the radar at that point.</b></p> <p>3 <b>So he was just being paid here and there for what</b></p> <p>4 <b>he did, so that was him and Jason. I had nothing</b></p> <p>5 <b>to do with it.</b></p> <p>6 Q Have you ever met James Deppoleto?</p> <p>7 <b>A Yes, sir.</b></p> <p>8 Q How many times have you met him?</p> <p>9 <b>A I met James in Dallas and I met him in</b></p> <p>10 <b>Atlanta.</b></p> <p>11 Q When was the first time you met Mr.</p> <p>12 Deppoleto?</p> <p>13 <b>A Oh, God, I -- I'm not sure, Patrick.</b></p> <p>14 <b>Maybe June -- it was when the fight was in -- PFL</b></p> <p>15 <b>was in Dallas. Him and his -- him and his dad</b></p> <p>16 <b>came out.</b></p> <p>17 Q And PFL is Professional Fighting League?</p> <p>18 <b>A Yes, sir.</b></p> <p>19 Q And why did you meet him at that time?</p> <p>20 What were the circumstances that led to you guys</p> <p>21 meeting?</p> <p>22 <b>A Me and Anthony Pettis go way back.</b></p> <p>23 <b>Anthony met me when we first came into the PFL in</b></p> <p>24 <b>2021 and wanted to invest, him and Josh, and</b></p> <p>25 <b>that's how I met James. James wanted to be a part</b></p>	<p>56</p> <p>1 <b>A I don't recall the date that him and</b></p> <p>2 <b>Josh came in. I don't remember. It was after --</b></p> <p>3 <b>it was after that fight in Florida, so probably</b></p> <p>4 <b>early -- early February, March of '22.</b></p> <p>5 Q Who's the Josh you just referred to?</p> <p>6 <b>A Rapkin.</b></p> <p>7 Q Can you spell that?</p> <p>8 <b>A R-A-P-K-I-N.</b></p> <p>9 Q And who is Mr. Rapkin?</p> <p>10 <b>A Buddy of Anthony's.</b></p> <p>11 Q And he also invested in Takeover?</p> <p>12 <b>A Yes. Him and Anthony first came in,</b></p> <p>13 <b>and then James came in, I believe, right after</b></p> <p>14 <b>that.</b></p> <p>15 Q Have Mr. Pettis and Mr. Rapkin been</p> <p>16 repaid whatever their investment was?</p> <p>17 <b>A I believe so. I believe they --</b></p> <p>18 Q Did they get --</p> <p>19 <b>A I believe they --</b></p> <p>20 Q Did they get notes or did they buy</p> <p>21 shares?</p> <p>22 <b>A I believe that they got shares, so they</b></p> <p>23 <b>moved them when the company went -- when Mike got</b></p> <p>24 <b>it trading back public, so I believe they did. I</b></p> <p>25 <b>don't know. I don't talk to Anthony anymore, so --</b></p>

<p>57</p> <p>1 Q I'm sorry. Did you say that they had 2 shares or did they have a note like Mr. Deppoleto 3 had? 4 A I believe they had a note that had 5 shares. That's how we usually would've done it, 6 so -- but Jason put that all together, so -- 7 Q And when you met Mr. Deppoleto in 8 Dallas, I think you said -- well, I just want to 9 make -- I just want to make sure your 10 understanding is that he was interested in 11 investing in Takeover and that's why you were 12 meeting in Dallas; is that accurate? 13 A He had mentioned he wanted to come in, 14 and so I told Jason just to have him come to 15 Dallas and we'll meet face-to-face. That's how we 16 usually -- I'd rather see somebody's eyes and see 17 if they're -- this is something they want to do 18 and make them feel comfortable with us, with me 19 and Joe. And he brought his father out, which is 20 a great -- was a great man. 21 We had a good time and he talked to me 22 for about 20, 30 minutes. And then we had him at 23 dinner and took him to the fight and had a great 24 time. And it was real nonchalant, real easy, and 25 if he came in, he came in. If he didn't and he</p>	<p>59</p> <p>1 just how I do things. You have to be right for 2 the company. Any brand I've ever been with, even 3 when we had our -- me and Mike had our own -- we 4 had Jonathan Quick, Haloti Ngata, and Aldon Smith 5 at one time. They were all like family. 6 So anybody we brought in, I wanted to 7 make sure was there for the right reason, and we 8 weren't having to babysit, especially somebody 9 like T-Pain that was getting bigger. And I had -- 10 I'd never known the guy, didn't know his 11 intentions, so I was kept away from him. I was 12 isolated from T-Pain. For Manny, we did Manny's 13 fight and I met Manny then, and his people there. 14 Q Why were you kept away from T-Pain? 15 A I couldn't tell you. Jason separated 16 that issue. I think that was his starting point 17 of trying to manipulate what they were trying to 18 do; try to take the shot, separate it from the 19 company, and take it private. I think that's when 20 his plan pretty much started. 21 Q Have you reviewed -- 22 A So I was kept away from T-Pain and his 23 people. 24 Q Have you -- have you reviewed the 25 contracts between Takeover and Manny Pacquiao and</p>
<p>58</p> <p>1 didn't, and that's kind of how I left it. Wished 2 him the best of luck, said, hopefully, see you 3 again, and then Jason said he wanted to come in. 4 There was no force. There was no -- it was just 5 real nonchalant. It was a great time. He was a 6 nice guy. He's a really nice guy. So is his 7 father. A lot of respect for the dad. We had a 8 great time. 9 Q Do you recall a June 10, 2021 special 10 meeting of Takeover's board of directors? 11 A I don't recall that. 12 Q Do you remember attending a meeting 13 around that time -- a -- a board of directors 14 meeting around that time? 15 A I don't recall. I would have to look 16 at it and see what it was about. 17 Q Did you have any involvement in 18 soliciting celebrity endorsements for Takeover, 19 such as paying Manny Pacquiao? 20 A Manny Pacquiao, I -- I was involved 21 after we got him. T-Pain was told from day one 22 and there are people from me to Jason to get me on 23 the phone with him. Just so you're aware, anybody 24 I've ever dealt with, I have to talk to you on the 25 phone. I have to meet you. I have to -- that's</p>	<p>60</p> <p>1 T-Pain? 2 A No. 3 Q Did you -- 4 A I've seen them briefly. That's it. 5 Q Did you sign those contracts on behalf 6 of Takeover? 7 A I believe so. 8 Q Do you remember the length of the 9 Pacquiao contract? 10 A I think that one was, like, 30 pages 11 long, wasn't it? I don't recall. 12 Q Oh, I mean, not the -- not the number 13 of pages in the document. 14 A Oh. 15 Q How long was the deal supposed to last? 16 A I couldn't tell you, Patrick. Sorry. 17 It's been so -- it's been a while. I believe two 18 years. 19 Q And that was executed in April 2021, 20 correct? 21 A Yeah. There was a lot that he had to 22 do, also; distribution in the Philippines, a lot 23 of the stuff that was supposed to go down that 24 Jason was supposed to make sure happened that 25 never happened.</p>

Transcript of Toby McBride  
Conducted on November 15, 2024

16 (61 to 64)

<p>61</p> <p>1 Q Was the Pacquiao contract exclusive?</p> <p>2 In other words, was Pacquiao agreeing to refrain</p> <p>3 from promoting products that competed with NXT LVL?</p> <p>4 <b>A I would've made -- we would've made</b></p> <p>5 <b>sure that would've -- anybody would've made sure</b></p> <p>6 <b>that would happen. I would assume that would've</b></p> <p>7 <b>been in there. He was a fan of the brand, so he</b></p> <p>8 <b>was drinking it before. Once we made it, it was</b></p> <p>9 <b>sent to him. That's how we got -- that's how he</b></p> <p>10 <b>pretty much got through a shareholder, got to us,</b></p> <p>11 <b>and he wanted to be a part of it, so that's how he</b></p> <p>12 <b>came to us. Otherwise, probably wouldn't have</b></p> <p>13 <b>been a part of the company.</b></p> <p>14 Q You spent Takeover's funds on personal</p> <p>15 expenses, correct?</p> <p>16 MR. BENNION: Just state an objection</p> <p>17 that that calls for speculation. Lacks foundation.</p> <p>18 Go ahead.</p> <p>19 THE WITNESS: Whatever I spent, I -- I</p> <p>20 paid back immediately.</p> <p>21 BY MR. HARVEY:</p> <p>22 Q So the answer is yes, you did spend</p> <p>23 Takeover funds on personal expenses?</p> <p>24 MR. BENNION: Same objection.</p> <p>25 THE WITNESS: Yes.</p>	<p>63</p> <p>1 MR. BENNION: Objection. Lacks</p> <p>2 foundation. Calls for speculation.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. HARVEY:</p> <p>5 Q How much did you spend if it wasn't</p> <p>6 over 250,000?</p> <p>7 <b>A I don't recall what -- that was also</b></p> <p>8 <b>thrown out in the AriZona case, but you already</b></p> <p>9 <b>know that.</b></p> <p>10 Q Over 200,000?</p> <p>11 <b>A I don't recall.</b></p> <p>12 Q Did Takeover reprimand you in any way?</p> <p>13 <b>A Well, I was suspended by Jason over</b></p> <p>14 <b>false accusations.</b></p> <p>15 Q You were placed on a leave of absence?</p> <p>16 <b>A Whatever -- yeah.</b></p> <p>17 Q And what was the time period?</p> <p>18 <b>A Three weeks. Supposed to be for 90</b></p> <p>19 <b>days, but Judge overturned it and then we exposed</b></p> <p>20 <b>Jason for what he was doing to our company and the</b></p> <p>21 <b>people he was doing it with.</b></p> <p>22 Q Were you placed on a leave of absence,</p> <p>23 in -- in other words, removed from your role as a</p> <p>24 director of Takeover, or were you only removed as</p> <p>25 your role as CEO of Takeover or was it both?</p>
<p>62</p> <p>1 BY MR. HARVEY:</p> <p>2 Q When was the first instance when you</p> <p>3 used Takeover funds for personal expenses?</p> <p>4 <b>A I don't recall.</b></p> <p>5 Q When was the last instance when you</p> <p>6 used Takeover funds for personal expenses?</p> <p>7 <b>A I believe August when we were in New</b></p> <p>8 <b>York.</b></p> <p>9 Q August of 2022?</p> <p>10 <b>A Yeah. Yes.</b></p> <p>11 Q What types of personal expenses did you</p> <p>12 charge to Takeover?</p> <p>13 <b>A I don't recall.</b></p> <p>14 Q Shopping?</p> <p>15 <b>A I don't recall.</b></p> <p>16 Q Travel?</p> <p>17 <b>A Travel would've been paid by the</b></p> <p>18 <b>company.</b></p> <p>19 Q Personal travel?</p> <p>20 <b>A It was never personal travel. Anything</b></p> <p>21 <b>I traveled, anything I went to with -- with the</b></p> <p>22 <b>PFL or -- was -- was done through -- was all</b></p> <p>23 <b>through the company.</b></p> <p>24 Q And you spent over \$250,000 of Takeover</p> <p>25 funds for personal expenses, correct?</p>	<p>64</p> <p>1 <b>A I believe it was just as the role --</b></p> <p>2 <b>couldn't take me off the board.</b></p> <p>3 Q Just as CEO?</p> <p>4 <b>A Yeah. You can't take me off the board.</b></p> <p>5 <b>Yeah.</b></p> <p>6 MR. HARVEY: Let me show you my screen</p> <p>7 again here.</p> <p>8 We'll mark this as Exhibit 2.</p> <p>9 (EXHIBIT 2 MARKED)</p> <p>10 BY MR. HARVEY:</p> <p>11 Q Are you able to see it?</p> <p>12 <b>A Yep.</b></p> <p>13 Q And at the top of this document, it's</p> <p>14 got a case number on it. And so it looks like</p> <p>15 this was something that was filed in court on</p> <p>16 September 2023.</p> <p>17 Setting aside that portion, have you</p> <p>18 seen this document before?</p> <p>19 <b>A I don't recall this.</b></p> <p>20 Q It's -- at the top, it says, Related</p> <p>21 Party Receivable Confirmation, correct?</p> <p>22 <b>A Right.</b></p> <p>23 Q And it's dated March 25, 2022, correct?</p> <p>24 <b>A Correct.</b></p> <p>25 Q And then it's -- a little bit further</p>


Transcript of Toby McBride  
Conducted on November 15, 2024

17 (65 to 68)

<p>65</p> <p>1 down, it says, The following information relating 2 to amount owed by me to Takeover Industries as of 3 December 31st, 2021, agrees to my records due from 4 related party as of December 31st, 20201, 5 \$243,253.84, correct? 6 <b>A Correct.</b> 7 Q And then you DocuSigned it on the 8 bottom, correct? 9 <b>A It looks like it.</b> 10 Q So as of March 25, 2022, you owed 11 Takeover \$243,000 and change, correct? 12 <b>A No. This is another made up document</b> 13 <b>by Jason. This is another made up money by Jason</b> 14 <b>Tucker. This was thrown out of court.</b> 15 Q Why did you sign it if it was made up? 16 <b>A This is all forcible stuff that Jason</b> 17 <b>put me through, put us through, put me and Joe</b> 18 <b>through, to release our shares, to threaten this,</b> 19 <b>threaten that, tell shareholders. That's why.</b> 20 Q I don't think I understand your answer. 21 Why would you have signed this document if you 22 weren't agreeing that you owed \$243,000 as of 23 March 25, 2022? 24 <b>A Because he was threatening to do</b> 25 <b>certain things that were scaring the shit out of</b></p>	<p>67</p> <p>1 <b>convinced that I did.</b> 2 Q And how did he go about convincing you? 3 <b>A With his threats.</b> 4 Q I'm not following that. 5 THE WITNESS: Don, I need a -- I need a 6 few minutes. I need a break. 7 MR. BENNION: I -- I -- Counsel, I do 8 think this is time for a break. You -- you -- you 9 -- your last statement was, I'm not following 10 that, so I don't think that's a question. If you 11 want to -- I do have to use the bathroom as well. 12 Is this a good time for a break? 13 MR. HARVEY: Sure. We can take five 14 minutes. 15 MR. BENNION: And by the way, could you 16 put the top of this document -- I can't see the 17 title of the document up top -- the related party 18 -- okay. Thank you. Can we take 10 minutes, 19 Patrick? 20 MR. HARVEY: Sure. Yeah. 21 THE WITNESS: I need 10 minutes. I got 22 to get my -- my (inaudible) and stuff situated 23 here. 24 THE VIDEOGRAPHER: All right. We are 25 going off the record. The time is 9:35 a.m.</p>
<p>66</p> <p>1 <b>me and Joe, so we didn't know better back then</b> 2 <b>what we know now.</b> 3 Q So you signed a document saying you 4 owed the company \$243,000, but you didn't actually 5 mean it? 6 <b>A This was thrown out of court. So I</b> 7 <b>don't know why I'm even answering this question.</b> 8 <b>This is -- this is -- this is lies. So I don't --</b> 9 <b>I don't owe the company \$243,000.</b> 10 Q So your testimony is that you signed 11 this saying you owed the company 243,000, but you 12 didn't actually believe you owed the company 13 243,000. Is that what you're telling me? 14 <b>A I'm telling you I don't owe the company</b> 15 <b>anything, that this was made up by Jason Tucker,</b> 16 <b>period, end of story. That's it.</b> 17 Q It sounds like you're talking about you 18 don't owe the company anything today. I'm asking 19 you as of March 25 -- 20 <b>A No.</b> 21 Q -- 2022, did you owe the company 22 \$243,000? 23 <b>A No, I did not.</b> 24 Q So why did you sign this, then? 25 <b>A Because at -- then Jason had us</b></p>	<p>68</p> <p>1 (OFF THE RECORD) 2 THE VIDEOGRAPHER: We are going back on 3 the record. The time is 9:54 a.m. 4 MR. HARVEY: During the break, Mr. 5 McBride told his counsel that he is not feeling 6 well, such that we need to end the deposition 7 right now. What -- I've agreed to do that, 8 obviously, holding it open. We've agreed to 9 continue the deposition next Friday, November 22, 10 starting at 8:00 a.m. Pacific, 10:00 a.m. 11 Central. We'll do that via Zoom as well. 12 Is that accurate, Counsel? 13 MR. BENNION: Yes, it is. Thank you, 14 Counsel. 15 MR. HARVEY: No problem. Okay. So I 16 think we're all set then. 17 MR. BENNION: Patrick, do you have a 18 second? Maybe you and I could talk. Maybe we -- 19 maybe we can do it via phone. We don't have to be 20 -- 21 MR. HARVEY: Yeah. Sure. I'm at my 22 office, if you want to give me a call. We can go 23 off the record now. 24 MR. BENNION: So Toby, take care and I 25 -- I -- I -- I'll call you later today. Get some</p>

Transcript of Toby McBride  
Conducted on November 15, 2024

18 (69 to 72)

<p>69</p> <p>1 rest.</p> <p>2 THE VIDEOGRAPHER: All right. This</p> <p>3 marks the end of part 1 of the deposition of Toby</p> <p>4 McBride. The time on the monitor is 9:55 a.m.</p> <p>5 (Off the record at 9:55 AM.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>71</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Carly Hurst, do hereby certify</p> <p>3 that this transcript was prepared from the digital</p> <p>4 audio recording of the foregoing proceeding; that</p> <p>5 said proceedings were reduced to typewriting under</p> <p>6 my supervision; that said transcript is a true and</p> <p>7 accurate record of the proceedings to the best of</p> <p>8 my knowledge, skills, and ability; and that I am</p> <p>9 neither counsel for, related to, nor employed by any</p> <p>10 of the parties to the case and have no interest,</p> <p>11 financial or otherwise, in its outcome.</p> <p>12</p> <p>13 <i>Carly Hurst</i></p> <p>14</p> <p>15 _____</p> <p>16 CARLY HURST</p> <p>17 PLANET DEPOS, LLC</p> <p>18 NOVEMBER 27, 2024</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>70</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2 I, Charlie McGrath, AAERT CER, the officer</p> <p>3 before whom the foregoing proceedings were</p> <p>4 taken, do hereby certify that any witness(es) in</p> <p>5 the foregoing proceedings were fully sworn;</p> <p>6 that the proceedings were recorded by me and</p> <p>7 thereafter reduced to typewriting by a</p> <p>8 qualified transcriptionist; that said digital</p> <p>9 audio recording of said proceedings are a</p> <p>10 true and accurate record to the best of my</p> <p>11 knowledge, skills, and ability; and that I am</p> <p>12 neither counsel for, related to, nor employed</p> <p>13 by any of the parties to this case and have</p> <p>14 no interest, financial or otherwise, in its</p> <p>15 outcome.</p> <p>16</p> <p>17 </p> <p>18</p> <p>19</p> <p>20 _____</p> <p>21 CHARLIE MCGRATH, AAERT CER, NOTARY PUBLIC,</p> <p>22 FOR THE STATE OF CALIFORNIA</p> <p>23 NOVEMBER 27, 2024</p> <p>24</p> <p>25</p>	

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Transcript of Toby McBride  
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Transcript of Toby McBride, Volume II  
Conducted on November 22, 2024

1 (72 to 75)

72	<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF NEVADA</p> <p>3 -----x</p> <p>4 JAMES DEPPOLETO, :</p> <p>5 Plaintiff, :</p> <p>6 vs. : Case No.</p> <p>7 TAKEOVER INDUSTRIES INCORPORATED, : 2:22CV02013</p> <p>8 et al., :</p> <p>9 Defendants. :</p> <p>10 -----x</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Videotaped Deposition of TOBY MCBRIDE</p> <p>15 Volume II</p> <p>16 Conducted Virtually</p> <p>17 November, Friday 22, 2024</p> <p>18 8:08 a.m. PST</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job No.: 559923</p> <p>24 Pages: 72 - 210</p> <p>25 Recorded By: Charlie McGrath, AAERT CER</p>	74	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFF:</p> <p>4 PATRICK HARVEY, ESQUIRE</p> <p>5 HUSCH BLACKWELL, LLP</p> <p>6 511 N. Broadway</p> <p>7 Suite 1100</p> <p>8 Milwaukee, Wisconsin 53202</p> <p>9 Phone: 414.273.2100</p> <p>10 (Present via videoconference)</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANTS:</p> <p>13 DON BENNION, ESQUIRE</p> <p>14 LAW OFFICE OF DON BENNION</p> <p>15 6980 O Bannon Drive</p> <p>16 Suite 400</p> <p>17 Las Vegas, Nevada 89117</p> <p>18 Phone: 702.333.0777</p> <p>19 (Present via videoconference)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 ALSO PRESENT:</p> <p>25 Jesse Castro - PD Videographer</p>
73	<p>1 Deposition of TOBY MCBRIDE, held virtually.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Pursuant to Notice, before Charlie McGrath,</p> <p>10 AAERT CER, Notary Public, in and for the State of</p> <p>11 California.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	75	<p>1 C O N T E N T S</p> <p>2 EXAMINATION OF TOBY MCBRIDE PAGE</p> <p>3 By Mr. Harvey 77</p> <p>4</p> <p>5</p> <p>6 E X H I B I T S</p> <p>7 (Attached to transcript.)</p> <p>8 DEPOSITION EXHIBIT PAGE</p> <p>9 Exhibit 3 Excerpts from Bank Statements 84</p> <p>10 Exhibit 4 Email Re Payments 146</p> <p>11 Exhibit 5 Resolution of Board of Directors 156</p> <p>12 Exhibit 6 Written Consent Board of Directors 168</p> <p>13 Exhibit 7 First Notice of Default 187</p> <p>14 Exhibit 8 Second Notice of Default 190</p> <p>15 Exhibit 9 Verified Complaint 194</p> <p>16 Exhibit 10 Balance Sheet 2022 201</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Transcript of Toby McBride, Volume II  
Conducted on November 22, 2024

2 (76 to 79)

<p>76</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins the</p> <p>3 continued deposition of to Toby McBride in the</p> <p>4 matter of Deppoleto v. Takeover Industries</p> <p>5 Incorporated, et al., in the United States</p> <p>6 District Court for the District of Nevada, Case</p> <p>7 number 2:22CV02013. Today's date is November</p> <p>8 22nd, 2024. The time on the video monitor is 8:08</p> <p>9 a.m. The remote videographer today is Jesse</p> <p>10 Castro representing Planet Depos. All parties of</p> <p>11 this video deposition are attending remotely.</p> <p>12 Would Counsel please voice</p> <p>13 identify themselves and state whom they represent?</p> <p>14 MR. HARVEY: Patrick Harvey for the</p> <p>15 plaintiff.</p> <p>16 MR. BENNION: Don Bennion for Toby</p> <p>17 McBride and the other Defendants.</p> <p>18 THE VIDEOGRAPHER: And the court</p> <p>19 reporter today is Charlie McGrath also</p> <p>20 representing Planet Depos. The witness may now be</p> <p>21 sworn.</p> <p>22 THE REPORTER: All right. One moment,</p> <p>23 folks.</p> <p>24 I am a notary authorized to</p> <p>25 administer oaths and this deposition will be</p>	<p>78</p> <p>1 A Yeah.</p> <p>2 Q So again, this is Exhibit Number 2.</p> <p>3 It's titled Related Party Receivable Confirmation,</p> <p>4 dated March 25, 2022, correct?</p> <p>5 A Correct.</p> <p>6 Q And this is a document where you're</p> <p>7 agreeing that you owe Takeover Industries \$243,000</p> <p>8 and change, correct?</p> <p>9 A Correct.</p> <p>10 MR. BENNION: Just state an objection</p> <p>11 to the extent it may call for a legal conclusion.</p> <p>12 Go ahead.</p> <p>13 BY MR. HARVEY:</p> <p>14 Q Did you ever tell Mr. Deppoleto about</p> <p>15 this money referenced in this document?</p> <p>16 A No.</p> <p>17 Q Do you know whether anyone else at</p> <p>18 Takeover told Mr. Deppoleto about the money</p> <p>19 referenced in this document?</p> <p>20 A The money referenced in this document</p> <p>21 was my salary for 2021, which was thrown out of</p> <p>22 court and proven that that's what it was. So, no.</p> <p>23 This money was not taken. This is a manufactured</p> <p>24 document made up by Jason to show your client what</p> <p>25 was going --</p>
<p>77</p> <p>1 recorded by electronic means. All parties</p> <p>2 understand and agree that any certified transcript</p> <p>3 produced from the recording of this -- of this</p> <p>4 proceeding is intended for all uses permitted</p> <p>5 under applicable procedural and evidentiary rules</p> <p>6 and laws and shall constitute written stipulation.</p> <p>7 The parties stipulate to the use and certification</p> <p>8 of this testimony consistent with applicable law</p> <p>9 of such. Hearing no objection, I will now swear</p> <p>10 the witness.</p> <p>11 Whereupon,</p> <p>12 TOBY MCBRIDE,</p> <p>13 being first duly sworn or affirmed to testify to</p> <p>14 the truth, the whole truth, and nothing but the</p> <p>15 truth, was examined and testified as follows:</p> <p>16 EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>17 BY MR. HARVEY:</p> <p>18 Q Good morning, Mr. McBride. Are you</p> <p>19 able to hear me?</p> <p>20 A Yeah, I can hear you.</p> <p>21 Q Okay. When we left off at your</p> <p>22 deposition last Friday, we were looking at Exhibit</p> <p>23 Number 2, and I was asking you some questions</p> <p>24 about it. I'm going to pull that up again. Are</p> <p>25 you able to see my screen?</p>	<p>79</p> <p>1 Q So I'm asking a slightly different</p> <p>2 question, and we'll get through this a lot quicker</p> <p>3 today if you can stick with my questions.</p> <p>4 My question was, did anyone from</p> <p>5 Takeover disclose the money referenced in this</p> <p>6 document to Mr. Deppoleto?</p> <p>7 MR. BENNION: Objection, may call for</p> <p>8 speculation. Go ahead.</p> <p>9 THE WITNESS: Couldn't tell you.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q You're not aware of anyone from</p> <p>12 Takeover disclosing this money referenced in</p> <p>13 Exhibit 2 to Mr. Deppoleto before he made any of</p> <p>14 the loans to Takeover, correct?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q Did you repay Takeover \$243,253.84?</p> <p>17 A Why would I repay my salary back to the</p> <p>18 company?</p> <p>19 Q So the answer to my question is no --</p> <p>20 A No.</p> <p>21 Q You did not repay \$243,000 to Takeover,</p> <p>22 correct?</p> <p>23 A No, no.</p> <p>24 Q We had a double negative there. Did</p> <p>25 you repay Takeover \$243,253.84?</p>

Transcript of Toby McBride, Volume II  
Conducted on November 22, 2024

3 (80 to 83)

<p>80</p> <p>1 A No.</p> <p>2 Q Are you aware that Michael Holley made</p> <p>3 unauthorized distributions from Takeover, meaning</p> <p>4 distributions without approval from Takeover's</p> <p>5 board of directors?</p> <p>6 MR. BENNION: Objection to the form of</p> <p>7 the question. Lacks foundation. Calls for</p> <p>8 speculation. Go ahead.</p> <p>9 THE WITNESS: No, untrue.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q You disagree that -- let me back up.</p> <p>12 Strike that.</p> <p>13 Are you saying that Michael Holley</p> <p>14 did not make unauthorized distributions from</p> <p>15 Takeover?</p> <p>16 A No. He never made unauthorized to my</p> <p>17 knowledge.</p> <p>18 Q So I think we -- we're talking past</p> <p>19 each other a little bit. Are you saying that Mr.</p> <p>20 Holley never made unauthorized distributions from</p> <p>21 Takeover?</p> <p>22 A Not to my knowledge.</p> <p>23 Q And are you saying you don't have</p> <p>24 personal knowledge of that, meaning you didn't see</p> <p>25 him do something like that, or you didn't hear</p>	<p>82</p> <p>1 that goal if you stick to the questions I'm asking</p> <p>2 you.</p> <p>3 My question was, are you aware of</p> <p>4 anyone alleging that Mr. Holley authorized</p> <p>5 unauthorized distributions of over -- or around</p> <p>6 \$750,000 of Takeover's money?</p> <p>7 MR. BENNION: Same objection. Go ahead.</p> <p>8 THE WITNESS: I was aware and it was</p> <p>9 lies.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q Okay. Who was raising those</p> <p>12 allegations?</p> <p>13 A Again, Jason Tucker.</p> <p>14 Q Anyone else?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q And you say that those allegations were</p> <p>17 lies, correct?</p> <p>18 A Yes, they were.</p> <p>19 Q What's your basis for saying that?</p> <p>20 A It was proven through three audits and</p> <p>21 two account -- two accounting firms.</p> <p>22 Q Was one of the accounting firms BF</p> <p>23 Borgers, CPA, PC?</p> <p>24 A He was our personal accountant. We</p> <p>25 brought in two more after that.</p>
<p>81</p> <p>1 directly him something like that? Is that what</p> <p>2 you're saying when you say, not to my knowledge?</p> <p>3 A I'm saying that not to my knowledge,</p> <p>4 that Mike did anything wrong in this company.</p> <p>5 Q Are you aware of allegations that Mr.</p> <p>6 Holley authorized unauthorized distributions of</p> <p>7 around \$750,000?</p> <p>8 A The -- the -- the -- no.</p> <p>9 Q You've never heard anyone allege that?</p> <p>10 A They're false statements.</p> <p>11 Q So you have heard people allege that?</p> <p>12 You just disagree with the allegations?</p> <p>13 A People, who?</p> <p>14 Q I'm asking you.</p> <p>15 A Jason Tucker -- Jason Tucker. First of</p> <p>16 all, anything Jason Tucker touched from when he</p> <p>17 came in until he was fired, let go, and voted off</p> <p>18 the board of directors for stealing, changing my</p> <p>19 bylaws, and everything that he did also with your</p> <p>20 client is null and void. That's why we're here is</p> <p>21 to renegotiate his note, which we tried to do as</p> <p>22 soon as we took the company back over.</p> <p>23 Q Mr. McBride, like I mentioned a moment</p> <p>24 ago, I'm trying to get you out of here as quickly</p> <p>25 as possible today, and we'll be able to accomplish</p>	<p>83</p> <p>1 Q And that's the same firm that's listed</p> <p>2 on Exhibit 2 that you signed, correct?</p> <p>3 A I'm not -- I don't recall. It was two</p> <p>4 years ago.</p> <p>5 Q I'll pull it up again for you. Showing</p> <p>6 you again Exhibit Number 2, the box I've got</p> <p>7 highlighted that says BF Borgers, CPA, PC, correct?</p> <p>8 A Correct.</p> <p>9 Q Okay. What were the other accounting</p> <p>10 firms that you're claiming proved that the</p> <p>11 \$750,000 were in fact authorized distributions?</p> <p>12 A I couldn't tell you. You'd have to</p> <p>13 look at the Arizona case.</p> <p>14 Q So you're relying solely on the Arizona</p> <p>15 case?</p> <p>16 A I'm relying on what the company did. I</p> <p>17 don't know who the accounting firms were. I'm not</p> <p>18 in contact with these people anymore. I don't</p> <p>19 talk to them anymore.</p> <p>20 Q And you, as you are sitting here today,</p> <p>21 you don't remember who these other accounting</p> <p>22 firms were other than BF Borgers, CPA?</p> <p>23 A Nope. BF Borgers, CPA, was in line</p> <p>24 with -- with Chase and Tucker trying to do what he</p> <p>25 was trying to do. And that was also proven. So</p>



<p style="text-align: right;">84</p> <p>1 <b>that's why we brought in two other accountants</b> 2 <b>that had nothing to do with this company to go</b> 3 <b>through everything. And we opened up our books to</b> 4 <b>do that.</b> 5 Q I'm going to show you another exhibit 6 here. 7 A <b>So Borgers did everything at the</b> 8 <b>direction of Jason Tucker.</b> 9 Q Did Jason Tucker pay Borgers directly 10 or did Takeover pay Borgers? 11 A <b>Again, my name was never on account.</b> 12 <b>Mike's was. Mike's was taken off by Jason Tucker.</b> 13 <b>Jason Tucker's was put on. So Jason Tucker --</b> 14 Q Borgers represented Takeover, not 15 Tucker individually, correct? 16 A <b>Exactly. But --</b> 17 MR. HARVEY: Okay. So I'm showing you 18 another exhibit. This will be Exhibit Number 3. 19 (EXHIBIT 3 MARKED FOR IDENTIFICATION) 20 BY MR. HARVEY: 21 Q Are you able to see my screen? 22 A <b>Yep.</b> 23 Q And at the top it says Bank of America. 24 And then it says Takeover Industries. And the 25 dates are December 8th, 2021 through January 7th,</p>	<p style="text-align: right;">86</p> <p>1 of these charges that we see here. Okay. So the 2 first one I want to ask you about are, there's two 3 charges on 12-13-2021, each for \$1,000, and it is 4 charged to All Pro Smog Tire and WH, Stockton, 5 California. Do you see those? 6 A <b>Yep.</b> 7 Q What was the purpose of those charges? 8 A <b>Couldn't tell you, but my truck is</b> 9 <b>tagged with Takeover and with Next Level on it.</b> 10 <b>So my vehicle was rolling marketing for the</b> 11 <b>company.</b> 12 Q You still have that vehicle? 13 A <b>Yes, I do.</b> 14 Q And it still says Takeover? 15 A <b>Yes, it does.</b> 16 Q Okay. So are you claiming that these 17 \$2,000 charges were for something related to a 18 Takeover advertising vehicle? 19 A <b>To my car being --</b> 20 Q I'm sorry, what? 21 A <b>Yeah, exactly.</b> 22 Q Do you know what you actually purchased? 23 A <b>Couldn't tell you.</b> 24 Q Okay. And if we go down on 12-16, 25 there's a charge for Lodi Beer Company.</p>
<p style="text-align: right;">85</p> <p>1 2022, correct? 2 A <b>Correct.</b> 3 Q And then this is a 53-page exhibit as 4 you can see. I don't want to go through every 5 single one, but I did want to go through some of 6 these line items that we see here. 7 MR. BENNION: Counsel, could you give 8 me the -- the first Bates number on this exhibit 9 please? 10 MR. HARVEY: Yep. It's DEF-00012. 11 MR. BENNION: Thank you. 12 BY MR. HARVEY: 13 Q And Mr. McBride, I think we talked 14 about this last time, but just in case. There's 15 Bates numbers in the bottom of these documents. 16 I'm not going to say the zeros. I'm just going to 17 say DEF-12 or whatever, going forward to speed 18 things along. Okay? Are you with me? 19 A <b>Yeah.</b> 20 Q Okay. So here we've got a section 21 labeled Toby McBride. And this is on Page 2 of 22 the 53-page PDF. It's DEF-14. Do you see that 23 section? 24 A <b>I see it.</b> 25 Q Okay. So I want to ask you about some</p>	<p style="text-align: right;">87</p> <p>1 A <b>Lodi.</b> 2 Q Lodi. What is that for? 3 A <b>I couldn't tell you. I probably took a</b> 4 <b>distributor out for lunch.</b> 5 Q But you don't remember as you sit here 6 today? 7 A <b>No.</b> 8 Q Who authorized you to make the \$1,000 9 purchases at All Pro Smog Tire and Wheel? 10 A <b>Me, Mike, Jason, Joe.</b> 11 Q You had a specific discussion about 12 these \$1,000 purchases? 13 A <b>No. When my -- when my vehicle -- when</b> 14 <b>-- when my vehicle is -- is driving 6,700 miles</b> 15 <b>every couple months to meet with distributors or</b> 16 <b>retailers, and it's my vehicle doing it and I'm</b> 17 <b>going to do it, it's covered by the company.</b> 18 Q Okay. You're just using the vague term 19 company. I'm asking who specifically authorized 20 these charges? 21 A <b>Me, Mike, Jason, and Joe --</b> 22 Q When -- 23 A <b>-- all knew about it.</b> 24 Q Is -- is there a formal -- 25 A <b>No.</b></p>

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<p>88</p> <p>1 Q -- or any sort of written document that</p> <p>2 authorized these charges?</p> <p>3 A <b>No. No.</b></p> <p>4 Q Okay. So you're telling me there was a</p> <p>5 specific discussion about these charges.</p> <p>6 A <b>No, there wasn't no specific discussion.</b></p> <p>7 Q Okay. Well, so how did the other</p> <p>8 people authorize it?</p> <p>9 A <b>When I went and did it, I would call</b></p> <p>10 <b>Mike or Chase and say, hey, I got to grab the car</b></p> <p>11 <b>servicer, or whatever I needed to do if it was</b></p> <p>12 <b>that expensive. And it was fine, there was never</b></p> <p>13 <b>-- never no -- you make it sound like somebody was</b></p> <p>14 <b>trying to steal money and do something. That --</b></p> <p>15 <b>that doesn't happen here. Never happened here.</b></p> <p>16 Q Okay. So who specifically did you talk</p> <p>17 to about the purchases at</p> <p>18 A <b>I --</b></p> <p>19 Q -- all Pro Smog Tire &amp; Wheel?</p> <p>20 A <b>I don't recall.</b></p> <p>21 THE REPORTER: I'm sorry, try and wait</p> <p>22 for the end of the question before answering.</p> <p>23 Thank you.</p> <p>24 BY MR. HARVEY:</p> <p>25 Q So as you sit here today, you can't</p>	<p>90</p> <p>1 lunch?</p> <p>2 A <b>Again, I'm the CEO of this company when</b></p> <p>3 <b>I was there. And everybody knew, Jason and Mike,</b></p> <p>4 <b>what I was doing. So for me to go take some of</b></p> <p>5 <b>the lunch, I don't need authorization to go do</b></p> <p>6 <b>that.</b></p> <p>7 Q Is there a document that says that?</p> <p>8 A <b>No.</b></p> <p>9 Q And you said you were the CEO at this</p> <p>10 time?</p> <p>11 A <b>Exactly.</b></p> <p>12 Q How did lunch with a Budweiser</p> <p>13 distributor benefit Takeover?</p> <p>14 A <b>It gets them distribution.</b></p> <p>15 Q Explain that a little more, if you</p> <p>16 would.</p> <p>17 A <b>I meet with distributors to show them</b></p> <p>18 <b>the product, to get it into retail, to get</b></p> <p>19 <b>distribution. Relationship building.</b></p> <p>20 Q And the other two individuals, you have</p> <p>21 no idea who they were?</p> <p>22 A <b>Nope.</b></p> <p>23 Q So how did buying lunch for them</p> <p>24 benefit Takeover?</p> <p>25 A <b>When we were ready to launch, they</b></p>
<p>89</p> <p>1 name anyone who authorized those specific charges</p> <p>2 at All Pro Smog Tire &amp; Wheel, correct?</p> <p>3 A <b>Either Mike or Jason, one of the two.</b></p> <p>4 Q You can't specifically name --</p> <p>5 A <b>No.</b></p> <p>6 Q Okay. Next one I wanted to ask you</p> <p>7 about is December '21, Pier Market in San</p> <p>8 Francisco, \$404.32; what was that charge for?</p> <p>9 A <b>Business -- business lunch with a</b></p> <p>10 <b>Budweiser distributor.</b></p> <p>11 Q Who was the distributor?</p> <p>12 A <b>Possibly Matagrano at that time.</b></p> <p>13 Q I'm sorry, could you spell that?</p> <p>14 A <b>M-A-T-A-G-R-A-N-O.</b></p> <p>15 Q So you spent \$434 on a lunch with one</p> <p>16 other person?</p> <p>17 A <b>There was four of us there.</b></p> <p>18 Q Who were the other people?</p> <p>19 A <b>I don't recall, but there was four of</b></p> <p>20 <b>us there.</b></p> <p>21 Q And you four spent \$434 on lunch?</p> <p>22 A <b>That's what it says, yes.</b></p> <p>23 Q What did you have?</p> <p>24 A <b>Couldn't tell you.</b></p> <p>25 Q Who authorized you to spend \$434 on</p>	<p>91</p> <p>1 <b>would have been behind us.</b></p> <p>2 Q Hadn't you already launched by this</p> <p>3 point, December 2021?</p> <p>4 A <b>We were launching online.</b></p> <p>5 Q I'm not following there.</p> <p>6 A <b>We were launching online. Only online</b></p> <p>7 <b>sales.</b></p> <p>8 Q Before December 2021?</p> <p>9 A <b>Exactly.</b></p> <p>10 Q And so what -- I'm not following the --</p> <p>11 what's the distinction that you're drawing there?</p> <p>12 A <b>The distinction is, in 2022, we would</b></p> <p>13 <b>go to retail and distribution. That's the</b></p> <p>14 <b>distinction.</b></p> <p>15 Q By the way, I was giving you the wrong</p> <p>16 dates. I just noticed, up here, it says Posting</p> <p>17 date, and the column -- the actual transaction</p> <p>18 date is the second column. So I apologize. The</p> <p>19 first one that I was asking you about was the All</p> <p>20 Pro Smog &amp; Tire. The actual transaction date was</p> <p>21 December 10, and then the Lodi Beer Company was</p> <p>22 December 14. So I just wanted to clarify that for</p> <p>23 the record. And then the Pier Market lunch was</p> <p>24 December 19. Did you submit receipts for the All</p> <p>25 Pro Smog charges?</p>

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<p>92</p> <p>1     <b>A   Receipts were sent all the time.</b></p> <p>2     Q   Who -- well, I'm talking specifically</p> <p>3   about these 12-10 charges for All Pro Smog. Did</p> <p>4   you send receipts to Takeover for those?</p> <p>5     <b>A   Yes, I would -- yes.</b></p> <p>6     Q   Who did you send those to?</p> <p>7     <b>A   I would have sent them to Mike at that</b></p> <p>8   <b>time.</b></p> <p>9     Q   Was anyone else involved in the All Pro</p> <p>10  Smog &amp; Tire purchases?</p> <p>11    <b>A   No.</b></p> <p>12    Q   The next one I want to ask you about</p> <p>13  is, on 12-20, there's a charge for \$300 for Great</p> <p>14  Wolf Lodge. What's that for?</p> <p>15    <b>A   I'm not too sure.</b></p> <p>16    Q   Apparently, the arrival was on the</p> <p>17  19th, and the departure was the 20th. And it was</p> <p>18  in Antica, California.</p> <p>19    <b>A   Business expense of some kind.</b></p> <p>20    Q   I'm sorry, what?</p> <p>21    <b>A   Business expense of some kind. It was</b></p> <p>22  <b>three years ago, I don't know.</b></p> <p>23    Q   Did you submit a receipt for that?</p> <p>24    <b>A   I'm not sure.</b></p> <p>25    Q   How would staying at a Great Wolf Lodge</p>	<p>94</p> <p>1     Q   Did you submit a receipt?</p> <p>2     <b>A   The receipt is what you see.</b></p> <p>3     Q   And you're telling me this was a</p> <p>4   business expense?</p> <p>5     <b>A   Anything I put on that card is a</b></p> <p>6   <b>business expense.</b></p> <p>7     Q   You said the receipt is what I see.</p> <p>8   I'm looking at a bank statement. That isn't --</p> <p>9   that's not a receipt.</p> <p>10    <b>A   I also kept the receipts.</b></p> <p>11    Q   Does Takeover still have those?</p> <p>12    <b>A   I couldn't tell you</b></p> <p>13    Q   Who would have controlled those?</p> <p>14    <b>A   Possibly Mike.</b></p> <p>15    Q   Anyone else? You said possibly.</p> <p>16    <b>A   Nope.</b></p> <p>17    Q   Next one is on January 13, 2020, \$1,000</p> <p>18  to Enterprise Rent-A-Car in Stockton, California.</p> <p>19  What's that for?</p> <p>20    <b>A   I couldn't tell you.</b></p> <p>21    Q   So you also couldn't tell me how that</p> <p>22  benefited Takeover?</p> <p>23    <b>A   Probably driving down to L.A. for -- to</b></p> <p>24  <b>go meet with people. Instead of taking my truck,</b></p> <p>25  <b>I would rather rent something that had less gas in</b></p>
<p>93</p> <p>1   -- which, I believe, is a water park, how would</p> <p>2   that be a business expense?</p> <p>3     <b>A   What difference is it -- it's a hotel.</b></p> <p>4   <b>Whether it's a water park or not, it's a hotel.</b></p> <p>5     Q   So as you sit here today, you have no</p> <p>6   justification for this expense, correct?</p> <p>7     <b>A   Exactly.</b></p> <p>8     Q   Okay.</p> <p>9     MR. BENNION: I'm going to state a</p> <p>10  belated objection to that question. May call for</p> <p>11  a legal conclusion.</p> <p>12  BY MR. HARVEY:</p> <p>13    Q   The next one I wanted to ask you about</p> <p>14  is on DEF-32. So here, we've got another Toby</p> <p>15  McBride section. And the first entry is January</p> <p>16  -- the one that I wanted to ask you about is</p> <p>17  January 10, 2022, Lodi Beer Company, for \$111.</p> <p>18  What was that for?</p> <p>19    <b>A   Either meeting with a distributor or</b></p> <p>20  <b>retailer.</b></p> <p>21    Q   Who was it?</p> <p>22    <b>A   Couldn't tell you, that was three years</b></p> <p>23  <b>ago.</b></p> <p>24    Q   Who authorized it?</p> <p>25    <b>A   Nobody.</b></p>	<p>95</p> <p>1   <b>it.</b></p> <p>2     Q   At the company's expense?</p> <p>3     <b>A   Exactly.</b></p> <p>4     Q   Even though the company was also</p> <p>5   paying, for example, \$2,000 for your truck to</p> <p>6   advertise Takeover, correct?</p> <p>7     <b>A   And? Yes.</b></p> <p>8     Q   Okay. And you're positive this was</p> <p>9   business as opposed --</p> <p>10    <b>A   Exactly.</b></p> <p>11    Q   -- to personal?</p> <p>12    <b>A   No.</b></p> <p>13    Q   How are you positive about that?</p> <p>14    <b>A   It's business.</b></p> <p>15    Q   Correct. But just calling it business</p> <p>16  doesn't tell me that. How are you positive that</p> <p>17  it was business as opposed to personal?</p> <p>18    <b>A   Because it wouldn't have been personal.</b></p> <p>19    Q   And what makes you say that?</p> <p>20    <b>A   I'm saying it. We can do this all day</b></p> <p>21  <b>long.</b></p> <p>22    Q   So you don't remember anything about</p> <p>23  this \$1,000 purchase to Enterprise Rent-A-Car,</p> <p>24  true?</p> <p>25    <b>A   I wouldn't have put anything on there</b></p>

<p>96</p> <p>1 <b>that wasn't business-related at that time. So</b> 2 <b>it's business-related.</b> 3 Q You -- my question was -- and again, 4 we'll get through this quicker if you stick with 5 my questions as opposed to the ones you'd like to 6 answer. 7 <b>A Be very careful. Don't -- don't --</b> 8 <b>don't -- don't --</b> 9 MR. BENNION: Let -- let -- let -- 10 let's just wait until there's a question, if -- if 11 -- it makes it easier for the transcriptionist. 12 BY MR. HARVEY: 13 Q Do you remember a single detail about 14 this Enterprise Rent-A-Car \$1,000 payment? 15 <b>A No.</b> 16 Q And if that's the case, how can you be 17 positive that it was a business expense? 18 <b>A Again, at that time, I wouldn't have</b> 19 <b>put anything on it that wasn't a business expense.</b> 20 Q You don't remember what kind of car you 21 rented, true? 22 <b>A I have no idea.</b> 23 Q You don't remember where you took that 24 car, true? 25 <b>A True.</b></p>	<p>98</p> <p>1 was that expense for? 2 <b>A Don't know.</b> 3 Q You don't remember a single detail 4 about this purchase? 5 <b>A Nope.</b> 6 Q How would a purchase from Dick's 7 Sporting Goods benefit Takeover? 8 <b>A I don't recall.</b> 9 Q How do you know this wasn't a personal 10 expense? 11 <b>A It's -- I don't recall. It's not a</b> 12 <b>personal expense.</b> 13 Q What product from Dick's Sporting Goods 14 could possibly benefit Takeover? 15 <b>A I do not recall.</b> 16 Q Next one we've got is also January 21. 17 Zoom Car Wash, \$262, on January 21, '22; do you 18 see that? 19 <b>A Yep.</b> 20 Q What was the purpose of spending 21 \$262.49 at a car wash? 22 <b>A That was probably detailing the truck</b> 23 <b>and getting everything fixed up on it. Oil</b> 24 <b>change, et cetera.</b> 25 Q And you said probably. Are you</p>
<p>97</p> <p>1 Q And you don't remember any specific 2 detail that would substantiate your claim that 3 this payment benefited Takeover, correct? 4 <b>A No.</b> 5 Q What's incorrect about it? 6 <b>A Because anything I would have done</b> 7 <b>would have been business-related. Whether I drove</b> 8 <b>to L.A., I don't know what that was in.</b> 9 Q And my question was, you don't remember 10 a single detail -- 11 <b>A No, not at this time --</b> 12 Q -- that would substantiate -- you got 13 to let me finish my question, sir. 14 You don't remember a single detail 15 that would substantiate your claim that this was 16 an expense that benefited Takeover, correct? 17 THE WITNESS: Correct. 18 MR. BENNION: Objection to the form of 19 the question. If we can just go a little bit 20 slower, Toby, so I can object if necessary. 21 Thanks, Counsel. 22 BY MR. HARVEY: 23 Q Next one -- the next one I wanted to 24 ask you about is a January 21, 2022 payment of 25 \$374.44 to Dick's Sporting Goods in Lodi. What</p>	<p>99</p> <p>1 actually sure that that's what that was for? 2 <b>A More than likely, to the best of my</b> 3 <b>recollection. Again, that was back --</b> 4 Q You get what? 5 <b>A -- in 2021.</b> 6 Q You get oil changes at a car wash? 7 <b>A You can here.</b> 8 Q Did you regularly get oil changes at 9 Zoom Car Wash? 10 <b>A Once or twice a year, yeah.</b> 11 Q And do you believe the car was 12 detailed? Is that what you're telling me? 13 <b>A To my best recollection, yes.</b> 14 Q Who authorized that purchase? 15 <b>A No one.</b> 16 Q Did you submit any receipts to take 17 over to substantiate that purchase? 18 <b>A Yes. Plus the --</b> 19 Q I'm sorry, I didn't hear you. What? 20 <b>A Yes, plus the statement.</b> 21 Q Who did you submit the receipt to? 22 <b>A It would've went to Mike.</b> 23 Q Mike Holley? 24 <b>A Yep.</b> 25 Q Next one I wanted to ask you about is</p>

Transcript of Toby McBride, Volume II  
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8 (100 to 103)

<p>100</p> <p>1 January 22, 2022, \$472.46 to Dillard's, 960 Weber 2 stow -- weber style. What is that charge for? 3 <b>A That was personal, and that was paid</b> 4 <b>back.</b> 5 Q When did you pay it back? 6 <b>A Immediately.</b> 7 Q Why did you use -- 8 <b>A Within two days.</b> 9 Q Why did you use a company credit card 10 for a personal purchase? 11 <b>A Because my other one wasn't with me,</b> 12 <b>that's why. And so I paid it right back.</b> 13 Q And there's a record of you paying that 14 back? 15 <b>A Of course there is.</b> 16 Q Is it going to be in this bank 17 statement that we're looking at? 18 <b>A I couldn't tell you. I don't -- I</b> 19 <b>don't control the bank. I don't control bank</b> 20 <b>statements. I don't -- I have no access to it.</b> 21 Q You said you paid it back within two 22 days? 23 <b>A It would've been taken out of my</b> 24 <b>monthly salary.</b> 25 Q So I want to make sure I'm clear. You</p>	<p>102</p> <p>1 true? 2 <b>A No.</b> 3 Q What was incorrect about my question? 4 <b>A I don't recall it. I don't recall the</b> 5 <b>-- the purchase, so --</b> 6 Q Maybe we had a double negative. That 7 was probably my fault. 8 Do you remember any specific 9 detail about this purchase that would substantiate 10 a claim that it was made for Takeover's benefit? 11 <b>A I don't recall at this time.</b> 12 Q Okay. Next we've got -- need to go 13 forward a couple pages to DEF-47. So we're on 14 DEF-47, and if we scroll up a little we see this 15 is another Toby McBride section. And what I 16 wanted to ask you about first off -- let's see, 17 where is it? Ah, here we go. 18 On three -- or March 3, 2022, 19 we've got a \$1,200 payment to Brookside Country 20 Club; do you see that? 21 <b>A Yep.</b> 22 Q What was that for? 23 <b>A That was approved by Jason Tucker.</b> 24 <b>That was a country club that we brought clients to</b> 25 <b>to do business with.</b></p>
<p>101</p> <p>1 didn't actually cut the company a check. It just 2 was taken out of your monthly salary. 3 Is that what you're telling me? 4 <b>A To my best of my recollection, yes.</b> 5 Q Who did you alert to this to make sure 6 that it was taken out of your monthly salary? 7 <b>A Mike.</b> 8 Q What is Dillard's? 9 <b>A Dillard's is like a Macy's.</b> 10 Q Like a Macy's? 11 <b>A Exactly.</b> 12 Q Okay. Next one I wanted to ask you 13 about is January 24. It's a \$477.44 charge to 14 Best Buy. 15 What was that for? 16 <b>A I can't -- I can't -- I -- I have no</b> 17 <b>idea what that one is.</b> 18 Q What products did Takeover use that 19 Best Buy sells? 20 <b>A I couldn't tell you. We were probably</b> 21 <b>buying a laptop or buying something to that, for</b> 22 <b>the company. I don't recall.</b> 23 Q As you sit here today, you have no 24 recollection of any detail about what this 25 purchase was for or how it benefited Takeover,</p>	<p>103</p> <p>1 Q So what was the actual payment for, 2 though? 3 <b>A Probably for the monthly fees, for two</b> 4 <b>months.</b> 5 Q Country club fees? Or when you say 6 fees, what do you mean? 7 <b>A We belonged to it for a short amount of</b> 8 <b>time to bring clients to, distributors, retailers,</b> 9 <b>here in California. And that was authorized by</b> 10 <b>Jason. Actually, his idea.</b> 11 Q Is there documentation of this 12 authorization that you're talking about? 13 <b>A I couldn't tell you.</b> 14 Q If there was -- 15 <b>A I --</b> 16 Q Go ahead. I'm sorry. 17 <b>A No, go ahead.</b> 18 Q Did anyone other than Jason Tucker 19 authorize this? 20 <b>A No. Joe Pavlik knew about it, though,</b> 21 <b>also. All three of us knew about it. All three</b> 22 <b>of us agreed.</b> 23 Q And why -- well, did you have -- did 24 Takeover have country club memberships anywhere 25 other than Brookside Country Club?</p>



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9 (104 to 107)

<p>104</p> <p>1 A No.</p> <p>2 Q And you're the only one who lives in</p> <p>3 California out of the Takeover people who were in</p> <p>4 charge at that time, correct?</p> <p>5 A Exactly.</p> <p>6 Q And so you had access to a country</p> <p>7 club, whereas other directors and officers of</p> <p>8 Takeover did not, correct?</p> <p>9 A Sure they did.</p> <p>10 MR. BENNION: Objection. Objection.</p> <p>11 Assumes facts not in evidence. Calls for</p> <p>12 speculation. Lacks foundation.</p> <p>13 BY MR. HARVEY:</p> <p>14 Q Go ahead, Mr. McBride.</p> <p>15 A I'm done.</p> <p>16 Q I didn't hear your answer. I'm sorry,</p> <p>17 what did you say?</p> <p>18 A I said sure they did.</p> <p>19 Q Which country club was Takeover paying</p> <p>20 for access for them too?</p> <p>21 A Well, when they were here, they had</p> <p>22 access to it.</p> <p>23 Q Okay. None of the other ones even live</p> <p>24 in California, though, correct?</p> <p>25 A No.</p>	<p>106</p> <p>1 anyone else's house?</p> <p>2 A Because I'm the one that's meeting with</p> <p>3 retailers and Budweiser distributors and Miller</p> <p>4 distributors throughout the United States. So</p> <p>5 when they were here, I would take them to go do</p> <p>6 stuff every once in a while. That is why.</p> <p>7 Q Okay. The next one --</p> <p>8 A It --</p> <p>9 Q -- I wanted to ask you -- I'm sorry,</p> <p>10 what?</p> <p>11 A Go ahead.</p> <p>12 Q The next one I wanted to ask you about</p> <p>13 -- we got to go down a few more pages to DEF-64.</p> <p>14 And this is another Toby McBride section. And</p> <p>15 here we've got a March 13, 2022, charge of</p> <p>16 \$6,463.95 to the Hilton Buena Vista Palace, I'm</p> <p>17 guessing that is.</p> <p>18 Do you see that?</p> <p>19 A Exactly.</p> <p>20 Q What was that charge for?</p> <p>21 A PFL event.</p> <p>22 Q And say a little more on that if you</p> <p>23 would.</p> <p>24 A Professional Fighting League that we</p> <p>25 sponsored.</p>
<p>105</p> <p>1 Q What's incorrect about it?</p> <p>2 A Jason was here all the time. Joe would</p> <p>3 come through --</p> <p>4 Q Did he live there?</p> <p>5 A Joe would come through all the time.</p> <p>6 No.</p> <p>7 Q Okay. Did Joe live in California?</p> <p>8 A No.</p> <p>9 Q Did Jason live in California?</p> <p>10 A Here and there he did.</p> <p>11 Q At this time in March of 2022, did he</p> <p>12 live in California?</p> <p>13 A No.</p> <p>14 Q And how far is Brookside Country Club</p> <p>15 from your house?</p> <p>16 A 15, 20 minutes.</p> <p>17 Q So this country club membership --</p> <p>18 well, strike that.</p> <p>19 It's your testimony, though, that</p> <p>20 Mr. Tucker authorized a country club membership</p> <p>21 for a country club 15, 20 minutes from your house,</p> <p>22 correct?</p> <p>23 A Exactly.</p> <p>24 Q Did -- why didn't Takeover authorize</p> <p>25 country club memberships for country clubs near</p>	<p>107</p> <p>1 Q I understood what you meant by PFL. I</p> <p>2 mean, what do you mean -- why did -- why did you</p> <p>3 spend \$6,400 for a PFL event?</p> <p>4 A We were there for a whole week.</p> <p>5 Q Who's the we?</p> <p>6 A Me, Kirby. Joe came in. That's the we.</p> <p>7 Q Why were you there for a week?</p> <p>8 A They invited us to come out and we went.</p> <p>9 Q Who's they?</p> <p>10 A The PFL.</p> <p>11 Q And it seems to show an arrival date of</p> <p>12 March 5 and a departure date of March 13. Do you</p> <p>13 see that? Do you see that?</p> <p>14 A Yep.</p> <p>15 Q PFL events are not typically five-day</p> <p>16 affairs, are they?</p> <p>17 A PFL events at that time were filming</p> <p>18 every other day, so yeah, they were. They weren't</p> <p>19 live events yet.</p> <p>20 Q And for eight days, how much were the</p> <p>21 room -- was it one room or multiple?</p> <p>22 A I couldn't tell you.</p> <p>23 Q So you don't know if this was lodging</p> <p>24 for just you?</p> <p>25 A It's not lodging for just me.</p>



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<p>108</p> <p>1 Q Okay. In any event, you're claiming</p> <p>2 that the \$6,400 charge was benefiting Takeover.</p> <p>3 Is that what you're saying?</p> <p>4 A <b>Exactly.</b></p> <p>5 Q And how was it benefiting Takeover?</p> <p>6 A <b>It's us broadening our brand with the</b></p> <p>7 <b>-- with the supplier that we're doing business</b></p> <p>8 <b>with.</b></p> <p>9 Q And can you say a little more about</p> <p>10 that? What -- I didn't hear. First of all, I</p> <p>11 didn't hear what you said about something --</p> <p>12 A <b>It's us promoting -- it's us promoting</b></p> <p>13 <b>our brand with -- with the people we're doing</b></p> <p>14 <b>business with.</b></p> <p>15 Q And what specifically did you do to</p> <p>16 promote your van -- brand during that trip?</p> <p>17 A <b>Getting it in front of fighters,</b></p> <p>18 <b>getting it in front of other suppliers, getting it</b></p> <p>19 <b>in front of other sponsors that are involved</b></p> <p>20 <b>there, athletes, et cetera.</b></p> <p>21 Q Who authorized that trip?</p> <p>22 A <b>Jason Tucker.</b></p> <p>23 Q Anyone else?</p> <p>24 A <b>No.</b></p> <p>25 Q Is there a written authorization?</p>	<p>110</p> <p>1 Q Who did you take to lunch during that</p> <p>2 time --</p> <p>3 A <b>I would take Budweiser there. I would</b></p> <p>4 <b>take Miller there. I would take retailers there.</b></p> <p>5 THE REPORTER: I'm sorry. Just a -- a</p> <p>6 reminder to try and wait for each other to finish.</p> <p>7 There's a lot of crosstalk. Thank you.</p> <p>8 BY MR. HARVEY:</p> <p>9 Q Do you remember a specific individual</p> <p>10 that you specifically took to Brookside Country</p> <p>11 Club in that month?</p> <p>12 A <b>No.</b></p> <p>13 Q And so you're guessing that that's who</p> <p>14 you took, but you don't actually know as you sit</p> <p>15 here today, correct?</p> <p>16 A <b>I don't know who I took at that time.</b></p> <p>17 Q Did you ever take your family to eat at</p> <p>18 Brookside Country Club?</p> <p>19 A <b>I did not.</b></p> <p>20 Q Did you ever take anyone, for example,</p> <p>21 a friend that had nothing to do with Takeover or</p> <p>22 distribution?</p> <p>23 A <b>I did not.</b></p> <p>24 Q Next one I want to ask you about was on</p> <p>25 DEF-78, another McBride section. And on April 15,</p>
<p>109</p> <p>1 A <b>No.</b></p> <p>2 Q Next one, we've got another March 29</p> <p>3 payment to Brookside Country Club for \$726. Do</p> <p>4 you see that?</p> <p>5 A <b>Yep.</b></p> <p>6 Q What was that for?</p> <p>7 A <b>Probably the monthly fees.</b></p> <p>8 Q You're saying probably, you're not sure?</p> <p>9 A <b>That's more than likely what it was.</b></p> <p>10 Q By this time of March 29 -- well,</p> <p>11 actually let me back up. We asked a couple of</p> <p>12 minutes ago -- or we were talking a couple minutes</p> <p>13 ago about a payment on March 3rd, 2022 to</p> <p>14 Brookside Country Club for \$1,200. Why were you</p> <p>15 making an additional payment to Brookside Country</p> <p>16 Club on March 29 the same month?</p> <p>17 A <b>I don't -- I don't -- I couldn't tell</b></p> <p>18 <b>you. I don't recall.</b></p> <p>19 Q If you made two payments in the same</p> <p>20 month that totaled about \$2,000, are you -- how</p> <p>21 can you be positive that this was for --</p> <p>22 A <b>More than likely -- more than likely it</b></p> <p>23 <b>would be lunches or -- or food that was during</b></p> <p>24 <b>that month. So during that two month time, that</b></p> <p>25 <b>was bought.</b></p>	<p>111</p> <p>1 we've got a payment of \$281 to a cigar club in</p> <p>2 Modesto, California.</p> <p>3 What was that for?</p> <p>4 A <b>Personal and I paid it back.</b></p> <p>5 Q When did you pay it back?</p> <p>6 A <b>Again out of my -- it would've came out</b></p> <p>7 <b>of my salary.</b></p> <p>8 Q Why did you use the company's credit</p> <p>9 card in the first place?</p> <p>10 A <b>I couldn't -- don't recall.</b></p> <p>11 Q And there's records of you paying that</p> <p>12 back?</p> <p>13 A <b>There's always records of me paying</b></p> <p>14 <b>stuff back.</b></p> <p>15 Q Who's got those records today?</p> <p>16 A <b>Auditors, accountants.</b></p> <p>17 Q Which auditors and accountants?</p> <p>18 A <b>Again, I -- I told you I don't know who</b></p> <p>19 <b>these guys are.</b></p> <p>20 Q So how are you positive that they have</p> <p>21 the records?</p> <p>22 A <b>Because we went through an audit and</b></p> <p>23 <b>through two audits and through two different</b></p> <p>24 <b>accounting firms to get our book straight after</b></p> <p>25 <b>your client and -- and Jason Tucker tried to take</b></p>

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<p>112</p> <p>1 <b>my company back. That's how. That's why it's --</b>  2 <b>that's why it's -- that's why it's public again</b>  3 <b>right now.</b>  4 Q So the next one I wanted to ask you  5 about was on DEF-112. We've got a June 17, 2022  6 charge for the Georgia Aquarium.  7 Do you see that?  8 A <b>Exactly.</b>  9 Q What is that for?  10 A <b>That was a PFL event that we went with</b>  11 <b>a couple of the people that came in for the PFL,</b>  12 <b>too.</b>  13 Q What does a PFL event have to do with  14 the Georgia Aquarium?  15 A <b>They were going and asked us to go, so</b>  16 <b>we went.</b>  17 Q Who's the they?  18 A <b>They would be a part of the PFL.</b>  19 Q Names, though. Who are they?  20 A <b>Couldn't -- I couldn't tell you.</b>  21 Q How many of them were there?  22 A <b>I -- I don't recall.</b>  23 Q Who went with you?  24 A <b>Joe Pablo.</b>  25 Q So you're saying that PFL people, who</p>	<p>114</p> <p>1 Brookside Country Club \$2,000 and change. What  2 was that for?  3 A <b>That was probably for three months of</b>  4 <b>payments that -- that Jay should push back and</b>  5 <b>then that's what was due then. He was pretty good</b>  6 <b>at not paying bills and telling you he paid bills,</b>  7 <b>so.</b>  8 Q As of July 2022, did Takeover have --  9 or was it paying for Country Club dues or fees for  10 any other officer or director other than you?  11 A <b>No.</b>  12 Q Next one, we're still on that same  13 page. We've got an August 1st, 2022 charge for  14 \$342 to Yankee's Clubhouse in New York, New York.  15 What is that for?  16 A <b>Personal and paid it back.</b>  17 Q How did you pay it back?  18 A <b>With my salary within like five or six</b>  19 <b>days of me returning home.</b>  20 Q Why did you use your company credit  21 card for that?  22 A <b>Because my salary didn't come through</b>  23 <b>from Jason.</b>  24 Q Why not?  25 A <b>Couldn't tell you.</b></p>
<p>113</p> <p>1 you can't name, said they were going to the  2 Georgia Aquarium and you went with them?  3 A <b>PFL, other -- other sponsors.</b>  4 Q How did going to an aquarium benefit  5 Takeover?  6 A <b>It's called relationship building.</b>  7 <b>That's how it benefits Takeover.</b>  8 Q How does going to an aquarium benefit  9 relationship building?  10 A <b>Number one, you're around people that</b>  11 <b>you're building relationships around to do better</b>  12 <b>business with and to understand how they do their</b>  13 <b>business and the -- and the push forward with</b>  14 <b>yours. That's how it's relationship building.</b>  15 Q Who authorized an expenditure at an  16 aquarium for Takeover?  17 A <b>Nobody.</b>  18 Q Next one I wanted to ask you about was  19 on DEF-127. So we're going to scroll out a little  20 more. So there's a couple of charges I wanted to  21 ask you about here. There's two to AT&amp;T. The  22 total about \$550 on July 23rd, 2022.  23 What were those for?  24 A <b>Probably my cell bill.</b>  25 Q And then beneath that we've got</p>	<p>115</p> <p>1 Q Is the same true of the August 2 --  2 where is it. Purchased from the MLB store?  3 A <b>Yep. Same thing.</b>  4 Q Personal expense?  5 A <b>Yep.</b>  6 Q Did you pay that back?  7 A <b>Yes, sir.</b>  8 Q And why'd you use the company credit  9 card?  10 A <b>Same -- same trip.</b>  11 Q How about the NBA store purchase? Was  12 that also a personal expense?  13 A <b>Same.</b>  14 Q So yes, it was personal?  15 A <b>Yes, sir.</b>  16 Q And did you pay that back?  17 A <b>Yes, sir.</b>  18 Q Why'd you use the card -- the company  19 credit card?  20 A <b>I wasn't paid my salary by Jason and he</b>  21 <b>knew it. And I used the card and then paid it</b>  22 <b>back right when I got back.</b>  23 Q Now I want to go back up to the  24 beginning of this document and ask you a couple of  25 other questions. So if we look at DEF-23, this is</p>

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<p>116</p> <p>1 a section that says withdrawals and other debits.</p> <p>2 Do you see that? Do you see that, Mr. McBride?</p> <p>3 <b>A Yep.</b></p> <p>4 Q And in this section on January 3rd,</p> <p>5 there's a transfer to you in the amount -- or</p> <p>6 there's a transfer from Takeover to you in the</p> <p>7 amount of \$10,000, correct?</p> <p>8 <b>A Yes.</b></p> <p>9 Q Why was Takeover transferring you</p> <p>10 \$10,000 on January 3rd, 2022?</p> <p>11 <b>A Probably a part of my salary. Again, I</b></p> <p>12 <b>don't access the account. Have no access to</b></p> <p>13 <b>account. Can Zelle or not Zelle anything from the</b></p> <p>14 <b>account.</b></p> <p>15 Q What is Zelle?</p> <p>16 <b>A Zelle is like a wire transfer that I</b></p> <p>17 <b>have zero access to.</b></p> <p>18 Q And when you say probably part of your</p> <p>19 salary, why do you say probably part of your</p> <p>20 salary?</p> <p>21 <b>A It's more than likely what it was. I</b></p> <p>22 <b>-- I wasn't -- I don't recall what that is. If</b></p> <p>23 <b>I'm getting money from Takeover, it's my salary.</b></p> <p>24 Q Well, for example, beneath that there's</p> <p>25 an entry that says payroll on January 4.</p>	<p>118</p> <p>1 <b>scattered all over the place with everybody.</b></p> <p>2 Q Who -- who had control of the account</p> <p>3 as of January 2022?</p> <p>4 <b>A Jason.</b></p> <p>5 Q When did he obtain control of the</p> <p>6 account?</p> <p>7 <b>A November or December of '21.</b></p> <p>8 Q And did you have a regular salary that</p> <p>9 you were paid? In other words, the same amount?</p> <p>10 <b>A Yes.</b></p> <p>11 Q Because I think you told me you got</p> <p>12 \$240,000 a year, correct?</p> <p>13 <b>A Right.</b></p> <p>14 Q Did you get a regular, whether it was</p> <p>15 weekly, or monthly, or whatever, was the check the</p> <p>16 same amount each time for your salary --</p> <p>17 <b>A It would -- it would value from what it</b></p> <p>18 <b>was supposed to be, the minus five seven, grand</b></p> <p>19 <b>every month -- -- it would it would -- it would</b></p> <p>20 <b>vary. I -- I don't recall.</b></p> <p>21 Q Okay. As you sit here today, though,</p> <p>22 you don't know for sure why you got a \$10,000</p> <p>23 payment from Takeover on January 3, 2022; is that</p> <p>24 correct?</p> <p>25 THE WITNESS: That would've been --</p>
<p>117</p> <p>1 Do you see that?</p> <p>2 <b>A Yep.</b></p> <p>3 Q So if that was your salary, why</p> <p>4 wouldn't it say payroll --</p> <p>5 <b>A I couldn't tell you --</b></p> <p>6 Q -- on that one?</p> <p>7 <b>A -- again, maybe you're not -- maybe</b></p> <p>8 <b>you're not listening to what I'm saying. I have</b></p> <p>9 <b>zero access to the account. Cannot Zelle, cannot</b></p> <p>10 <b>pull from the account, cannot make deposits to the</b></p> <p>11 <b>account. So maybe you should ask Jason Tucker</b></p> <p>12 <b>these questions. Not me because I have no idea.</b></p> <p>13 Q So as you sit here today, you have no</p> <p>14 idea why Takeover transferred \$10,000 to you on</p> <p>15 January 3rd, 2022?</p> <p>16 <b>A Again, that was probably part of my</b></p> <p>17 <b>salary. That was two years ago. I don't recall</b></p> <p>18 <b>what that was. More than likely, 98 percent, it's</b></p> <p>19 <b>my salary.</b></p> <p>20 Q Were you paid -- what was the cadence</p> <p>21 of your payments? Was it monthly, weekly? What</p> <p>22 was the -- your salary payments?</p> <p>23 <b>A When -- when Mike was in -- when Mike</b></p> <p>24 <b>had the account, it was monthly. When Jason was</b></p> <p>25 <b>in -- in charge of the account, it -- it was</b></p>	<p>119</p> <p>1 MR. BENNION: Excuse me, Toby.</p> <p>2 Objection. Asked and answered. Go ahead. Go --</p> <p>3 go ahead, Toby.</p> <p>4 THE WITNESS: I'm done.</p> <p>5 BY MR. HARVEY:</p> <p>6 Q You didn't actually answer that</p> <p>7 question?</p> <p>8 <b>A I answered it before. More than likely</b></p> <p>9 <b>it was part of my salary. It was in 2022. I</b></p> <p>10 <b>don't -- I don't recall.</b></p> <p>11 Q My question was slightly different. As</p> <p>12 you sit here today, you don't remember for sure</p> <p>13 why you received \$10,000 from Takeover on January</p> <p>14 3rd, 2022, correct?</p> <p>15 <b>A Again, I would only receive money from</b></p> <p>16 <b>Takeover if it was part of my salary. That's it.</b></p> <p>17 <b>There is no gray area. It's black or it's white.</b></p> <p>18 <b>That's it.</b></p> <p>19 Q So you're positive that -- that was</p> <p>20 part of your salary payment?</p> <p>21 <b>A Yes.</b></p> <p>22 Q Next one I wanted to ask you about is</p> <p>23 down on the next page, so DEF-24. So on -- oh,</p> <p>24 wrong one. Sorry. January 10th. There's another</p> <p>25 -- so we're just one week after January 3rd, 2022,</p>

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<p>120</p> <p>1 there's another transfer from Takeover to you in 2 the amount of \$10,000, correct?</p> <p>3 <b>A Yes.</b></p> <p>4 Q And so two weeks into the new year, 5 you've been paid \$20,000 from Takeover, correct?</p> <p>6 <b>A Yes.</b></p> <p>7 Q And if that cadence continued, you 8 would've been paid \$40,000 that month, correct?</p> <p>9 <b>A If that cadence would've continued, but 10 that cadence didn't continue.</b></p> <p>11 Q Okay. Do you know what this payment 12 was for on January 10, 2022?</p> <p>13 <b>A Either late payment on my salary from 14 December not getting paid or I'm not too sure. 15 You have to ask Jason Tucker these questions.</b></p> <p>16 Q Well, I'm asking you, is this --</p> <p>17 <b>A I have no -- I have no control. I have 18 no control back in time.</b></p> <p>19 Q You got to let me finish my question, 20 sir.</p> <p>21 As you sit here today, do you know 22 specifically why you received \$10,000 from 23 Takeover on January 10, 2022?</p> <p>24 <b>A No, I do not. But it's funny how you 25 see Jason's name -- Jason's Company right</b></p>	<p>122</p> <p>1 <b>A No. Yes, sir.</b></p> <p>2 Q Okay. The next one is on DEF-40. 3 We've got a February 14, 2022 transfer from 4 Takeover to you in the amount of \$5,000; do you 5 see that?</p> <p>6 <b>A Yep.</b></p> <p>7 Q Why did you receive \$5,000 from 8 Takeover on February 14, 2022?</p> <p>9 <b>A You'd have to ask -- would be part of 10 my salary, but again, you'd have to ask Jason 11 Tucker.</b></p> <p>12 Q So you seem to be giving me the same 13 answer to every one of my questions about these 14 transfers. I have -- I'll tell you I'm seeing 15 about 31 more. I can go through them all one by 16 one or we can try and be a little more efficient. 17 I'll just tell you this document that we're 18 looking at, there are payments referenced on this 19 document from Takeover to you on February 24, 20 2022, and these dates are all 2022, unless I say 21 otherwise, February 24, March 1, March 14, March 22 29, April 5, April 15, April 20, April 29, May 6, 23 May 13, May 19, May 26, another one on May 26, 24 June 21, June 27, July 1, July 8, July 20, July 25 28, August 22, September 1, September 7, December</p>
<p>121</p> <p>1 <b>underneath mine. Very odd.</b></p> <p>2 Q So then the next one --</p> <p>3 <b>A I noticed, is there -- I -- I noticed 4 that Jason never brought up on this, it's probably 5 because he's still talking to your client. 6 Amazing.</b></p> <p>7 Q The next one I wanted to ask you about 8 is January 27, 2022. And we see another Takeover 9 transfer from -- to you in the amount of \$7,500, 10 correct?</p> <p>11 <b>A Correct.</b></p> <p>12 Q Why did you receive \$7,500 from 13 Takeover on January 7 or 27, 2022?</p> <p>14 <b>A I don't recall. You'd have to ask 15 Jason Tucker that question.</b></p> <p>16 Q Next one is on DEF-39. And the first 17 question I wanted to ask you is about this 18 February 2, 2022 transfer for Takeover to you in 19 the amount of a thousand dollars; do you see that?</p> <p>20 <b>A I see it, but I have no idea what that 21 is. And again, I don't -- I can't make Zelle 22 transfers. You have to ask Jason Tucker.</b></p> <p>23 Q So you don't know why you received a 24 payment from Takeover of a thousand dollars on 25 February 2nd, 2022; is that correct?</p>	<p>123</p> <p>1 12, December 16, December 19, January 6, January 2 10. Oh, I'm sorry. So that's all the 2022 dates. 3 And then these dates are 2023, January 6, January 4 10, February 1, March 2, March 27, September 21, 5 December 6.</p> <p>6 If I asked you the same questions 7 about all of those and by the same questions, I 8 mean, do you know why you received payments from 9 Takeover on those dates? Would your answer be 10 what you've just been answering me, you don't know 11 why you received those payments?</p> <p>12 <b>A It would've been part of my salary.</b></p> <p>13 Q Okay. And I suspect you didn't commit 14 those dates to memory and we can go through one by 15 one, but if you look at them, there's not a 16 regular pattern to them.</p> <p>17 <b>A There was never a regular pattern on 18 how we were paid. We made sure everybody else was 19 paid and they -- all the bills were taken cared of 20 before we were paid. So it wasn't like the 1st 21 and the 15th. So again, you'd have to ask Jason 22 Tucker how -- why those went out that way. But 23 the only reason they would come to me would've 24 been part of my salary. So just so we're clear. 25 And I have zero access again, to any bank account,</b></p>

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<p>124</p> <p>1 <b>in a wire, to money to know what's in there. I</b>  2 <b>relied on Mike and Jason.</b>  3 Q So the -- and I'll tell you too, all of  4 these payments, and again, I'm happy to go through  5 all 31 additional if you'd like me to, but they  6 all end in the zero -- zero and they're differing  7 amounts. For example, the December 12, 2022  8 payment is for 400 -- well, this one isn't a zero  9 -- zero, but ends in a round number. It's \$450,  10 but then we also see payments on, for example,  11 September 7, '22 for \$10,000, but they all are  12 round numbers and they're all differing amounts.  13 So my question for you is  14 companies are generally with -- required to  15 withhold taxes, and I don't see how these could  16 all be round numbers if this was in fact payroll.  17 Do you have any explanation for  18 how these could all be round numbers, especially  19 given that they were so different?  20 <b>A I do not recall.</b>  21 Q Did the company withhold taxes from  22 your paycheck?  23 <b>A I pay -- I paid my taxes at the end of</b>  24 <b>the year. Yes.</b>  25 Q Did the company withhold --</p>	<p>126</p> <p>1 you were receiving all of these 31 transfers on  2 the dates I just referenced and they all ended in  3 round numbers?  4 <b>A I could I -- I have no idea. I don't</b>  5 <b>recall.</b>  6 Q Is the fact that they all ended in  7 round numbers, but you assume taxes were being  8 withheld; does that cause you to question your  9 assertion that this was all payroll payments?  10 <b>A No.</b>  11 Q Why not?  12 <b>A Just doesn't.</b>  13 Q Okay. And the fact that one of these  14 payments, for example is for \$450, you're telling  15 me that -- that was your payroll for that date?  16 <b>A Again, I don't recall.</b>  17 MR. BENNION: Hold -- hold on.  18 Objection. Lacks foundation. May call for  19 speculation. Go ahead.  20 BY MR. HARVEY:  21 Q If you answer, I didn't hear. Your  22 lawyer was talking.  23 <b>A I don't recall.</b>  24 Q Okay. So but you're telling me you're  25 positive that every one of these payments was</p>
<p>125</p> <p>1 <b>A I believe so.</b>  2 Q What's that? I'm sorry. What did you  3 say?  4 <b>A I don't recall.</b>  5 Q So you don't know as the CEO one way or  6 another, whether Takeover was withholding taxes  7 from your payments; is that what you're telling me?  8 <b>A Taxes were claimed at the end of the</b>  9 <b>year.</b>  10 Q So you're telling me that Takeover did  11 not withhold taxes from your --  12 <b>A I'm -- I'm not -- not telling you</b>  13 <b>anything. I don't recall.</b>  14 Q Well, that's what I'm asking you, did  15 Takeover withhold taxes from your payroll?  16 <b>A I don't recall.</b>  17 Q As the CEO of the company up through at  18 least a portion of 2023, you don't recall whether  19 the company withheld taxes; is that what you're  20 telling me?  21 <b>A I -- I -- I don't -- I don't recall. I</b>  22 <b>-- I would assume that that's what would've</b>  23 <b>happened, but I don't recall.</b>  24 Q And so if you're assuming that that's  25 what would've happened, how is it possible that</p>	<p>127</p> <p>1 payroll?  2 <b>A To my best of my recollection, yes.</b>  3 Q Now --  4 <b>A So the reason why I would get -- only</b>  5 <b>reason why I would get transfers.</b>  6 Q At a certain point, you and the others  7 pushed Mr. Tucker out of Takeover, correct?  8 MR. BENNION: Objection to the form of  9 the question. Calls for speculation. Go ahead.  10 Vague and ambiguous.  11 THE WITNESS: Ask the question again?  12 BY MR. HARVEY:  13 Q At a certain point, you and the others  14 pushed Mr. Tucker out of Takeover, correct?  15 <b>A Yeah, by finding out what he was doing</b>  16 <b>with your client, so yes.</b>  17 Q And when was this that he was pushed  18 out of Takeover?  19 <b>A Early November, I believe.</b>  20 Q So who was responsible for payroll  21 after he was pushed out of the company?  22 <b>A Mike.</b>  23 Q Mike Holley?  24 <b>A Yes. It wasn't me. It was Mike.</b>  25 Q Okay. So any transfers to you after</p>



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<p>1 Mr. Tucker was pushed out of the company, it's 2 your testimony that Mike Holley would've been 3 responsible for those; is that what you're telling 4 me? 5 <b>A To the best of my recollection, we 6 didn't pull payroll after that point.</b> 7 Q After what point? 8 <b>A I don't believe after November, 9 December, if it was, it was like five grand.</b> 10 Q So for example, if we go to DEF-334, 11 there's a December 6, 2023 payment from Takeover 12 to you for \$10,000, correct? 13 <b>A Yes.</b> 14 Q And this was over a year after Mr. 15 Tucker had been pushed out of the company, correct? 16 <b>A Yes.</b> 17 Q And this was a year after the lawsuit, 18 this lawsuit had been filed, correct? 19 <b>A That -- that would've been for -- for 20 -- for me leaving the company and moving my 21 shares, so that's what that is.</b> 22 Q How are you sure about that? 23 <b>A Because I know what that is. That's 24 when I left the company.</b> 25 Q Is there some written document</p>	<p>128 130 1 <b>but no, I -- I don't recall. I'm not going to 2 disagree with that. I'm not going to agree with 3 it either. So whatever Tom says -- tom says, that 4 has nothing to do with me.</b> 5 Q Okay. Well, let's use your -- let's 6 use your -- let's use your date. I'm just trying 7 to set up a bookend here. So when did Mr. Tucker 8 join the company? Ballpark is fine. I don't need 9 an exact date. 10 <b>A If you remember what I told you, 11 February, March -- February or March, in between 12 there, of '21.</b> 13 Q Okay. And so you're saying that at 14 least as of that date, Takeover's liabilities 15 exceeded its assets, correct? 16 <b>A We were moving hydrogen water. We did 17 a quarter of a million our first month when we 18 started doing hydrogen water. And every month, 19 then we would probably bring in 100 to 150,000 a 20 month until, you know, four or five months in when 21 Jason wanted to go the short direction. So -- so 22 I wouldn't know. It's -- it's possible.</b> 23 Q To your knowledge, when was the first 24 -- when was the first time that Takeover's assets 25 or Takeover's liabilities exceeded its assets?</p>
<p>129 1 authorizing a payment of \$10,000 to you in 2 exchange for you leaving the company and doing 3 what with your shares? 4 <b>A I sold part of my shares back to the 5 company. There is documents. There's -- there's 6 documents signed by the board of directors.</b> 7 Q Authorizing this payment or a different 8 payment? 9 <b>A Authorizing the whole transaction.</b> 10 Q How much specifically -- well, are you 11 claiming this \$10,000 all of it was in exchange 12 for selling your shares or only a portion of it? 13 <b>A Portion of it.</b> 14 Q How much of the 10,000? 15 <b>A I don't recall.</b> 16 Q And you're claiming that there's 17 documentation showing that this was authorized? 18 <b>A There is documentation.</b> 19 Q Okay. I'll represent to you that 20 yesterday, Mr. Zarro testified that Takeover's 21 liabilities exceeded its assets, essentially, from 22 the day after Takeover was opened in early 2021. 23 Do you disagree with Mr. Zarro's testimony on that? 24 <b>A I would agree after Jason came in, 25 that's probably, you know -- could possibly be,</b></p>	<p>131 1 MR. BENNION: Objection. Lacks 2 foundation. May call for speculation. Go ahead. 3 THE WITNESS: I couldn't tell you. 4 BY MR. HARVEY: 5 Q As of November, 2022, you'd agree with 6 me that Takeover's liabilities exceeded its 7 assets, correct? 8 <b>A No.</b> 9 Q Why do you say no? 10 <b>A I just don't believe they did. But 11 again, I'm not seeing the bank accounts. I'm only 12 seeing what my sales team is doing and what's 13 going on in the market. So whatever Tom told you, 14 Tom -- that's Tom's opinion.</b> 15 Q Well, Tom has been CEO of Takeover 16 since April, 2023, correct? 17 <b>A To the best of my knowledge.</b> 18 Q Okay. And are you disagreeing with him 19 that Takeover's liabilities exceeded its assets at 20 least as of that date? 21 <b>A Possibly, but I don't know for sure.</b> 22 Q And in terms of why Mr. Deppoleto was 23 not repaid, several witnesses have testified that 24 one of the reasons was because Takeover didn't 25 have the money to repay him as well as PFL. Do</p>



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<p>132</p> <p>1 you disagree with that testimony?</p> <p>2 <b>A I wouldn't disagree with that, but I'll</b></p> <p>3 <b>also say that Mr. Deppoleto was reached out to</b></p> <p>4 <b>more than enough times to pay him back and that</b></p> <p>5 <b>did not happen. He would be paid back twice</b></p> <p>6 <b>over by now.</b></p> <p>7 MR. BENNION: I'm going to state a</p> <p>8 belated objection that to that question. That's a</p> <p>9 compound question. Go ahead.</p> <p>10 THE WITNESS: Just so you know,</p> <p>11 Patrick, I have no knowledge of when he's reached</p> <p>12 out to or what they do or -- or when they made,</p> <p>13 what do you call it, settlement agreements with</p> <p>14 him. I'm -- I'm not kept in the loop on that</p> <p>15 part, so I stay out of it. It's the only way to</p> <p>16 keep my distance.</p> <p>17 BY MR. HARVEY:</p> <p>18 Q When did Takeover stop actively doing</p> <p>19 business?</p> <p>20 <b>A I couldn't tell you. I was gone.</b></p> <p>21 Q When did you leave?</p> <p>22 <b>A Early. Excuse me. Early January.</b></p> <p>23 Q Of --</p> <p>24 <b>A '23.</b></p> <p>25 Q -- what year? And was -- well, now I'm</p>	<p>134</p> <p>1 payment in December, 2023 from Takeover?</p> <p>2 <b>A That would've been part of my</b></p> <p>3 <b>settlement when I walked away.</b></p> <p>4 Q Okay. And is there a formal settlement</p> <p>5 agreement?</p> <p>6 <b>A Yep, there is. Approved by the board</b></p> <p>7 <b>of directors and filed. That was public.</b></p> <p>8 MR. HARVEY: Counsel, that's an --</p> <p>9 counsel, that's another document that we have not</p> <p>10 been provided. So I'm going to request it.</p> <p>11 MR. BENNION: So for clarification,</p> <p>12 that would be a settlement agreement drafted and</p> <p>13 -- and perhaps filed when --</p> <p>14 THE WITNESS: It was filed public.</p> <p>15 MR. BENNION: Okay. Okay. Toby,</p> <p>16 please -- please don't talk over me. We need the</p> <p>17 court reporter to get an accurate record. That</p> <p>18 was filed publicly showing the settlement of Toby</p> <p>19 McBride when he left. When you left Takeover. Is</p> <p>20 that what we're -- is that what you're requesting,</p> <p>21 Counsel?</p> <p>22 MR. HARVEY: That's what I understood</p> <p>23 him to be saying.</p> <p>24 MR. BENNION: Okay.</p> <p>25 BY MR. HARVEY:</p>
<p>133</p> <p>1 confused.</p> <p>2 <b>A Well, I was really, you know, the -- I</b></p> <p>3 <b>-- I started exiting in -- in -- in, you know,</b></p> <p>4 <b>kind of, December into January. I just had to</b></p> <p>5 <b>stay away from it.</b></p> <p>6 Q 2022 or 2023?</p> <p>7 <b>A 2022.</b></p> <p>8 Q So you exited in January, 2023?</p> <p>9 <b>A Let me get the -- let me make sure the</b></p> <p>10 <b>dates are straight. When the -- the year we got</b></p> <p>11 <b>-- the day we got rid of Jason was what year?</b></p> <p>12 <b>That was 2022, correct? Was that '23? I get</b></p> <p>13 <b>confused on years, so my apologies. So whatever</b></p> <p>14 <b>the day -- day was we got rid of Jason, within a</b></p> <p>15 <b>couple of months, I had had enough.</b></p> <p>16 Q Okay. Well, Mr. Holley, I believe the</p> <p>17 evidence shows, reentered the company November.</p> <p>18 In fact, I can go over the board resolutions if</p> <p>19 you want.</p> <p>20 <b>A Yes.</b></p> <p>21 Q But reentered company around November</p> <p>22 '22?</p> <p>23 <b>A There -- so it was -- I was right after</b></p> <p>24 <b>that.</b></p> <p>25 Q Okay. So why were you receiving this</p>	<p>135</p> <p>1 Q All right. So if you left -- so your</p> <p>2 testimony is that even though you left the company</p> <p>3 in around January, 2023, you were receiving this</p> <p>4 \$10,000 payment in December, 2023, because of a</p> <p>5 settlement you entered into with Takeover. Is</p> <p>6 that what you're telling me?</p> <p>7 <b>A Yeah, to separate myself and walk away.</b></p> <p>8 Q And when you say settlement, had you</p> <p>9 threatened litigation against Takeover?</p> <p>10 <b>A No. We were all on the same page. Why</b></p> <p>11 <b>would I sue my own company? There's no reason to</b></p> <p>12 <b>do that.</b></p> <p>13 Q Well, that's what I was curious about,</p> <p>14 too. But you were calling it a settlement and</p> <p>15 typically a settlement means you're settling</p> <p>16 disputed claims.</p> <p>17 <b>A No. Settlement meaning that I had</b></p> <p>18 <b>shares. I wanted to not have nothing to do with</b></p> <p>19 <b>the company anymore. I -- I needed to start my</b></p> <p>20 <b>life over, as you could understand, and get my own</b></p> <p>21 <b>life back. And by doing that, it's me walking</b></p> <p>22 <b>away. But me walking away as the CEO had to be</b></p> <p>23 <b>done the right way through the SEC through FINRA,</b></p> <p>24 <b>through -- so those are the processes that we took.</b></p> <p>25 Q Did anyone, to your knowledge -- well,</p>

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<p>136</p> <p>1 I'll ask it two ways.</p> <p>2 One, did you consult Mr. Deppoleto</p> <p>3 about receiving this \$10,000 payment in December,</p> <p>4 2023, before you received it?</p> <p>5 <b>A I haven't talked to your client since</b></p> <p>6 <b>July of '22.</b></p> <p>7 Q So the answer to my question is --</p> <p>8 <b>A No.</b></p> <p>9 Q And again, I'm trying to get you out of</p> <p>10 here quickly.</p> <p>11 <b>A No, I gotcha. Sorry, Patrick.</b></p> <p>12 Q No problem. To your knowledge, did</p> <p>13 anyone from Takeover consult Mr. Deppoleto before</p> <p>14 Takeover made this \$10,000 payment to you in</p> <p>15 December, 2023?</p> <p>16 <b>A I don't recall.</b></p> <p>17 Q And then if we go up to DEF-300, and</p> <p>18 we're in the withdrawals and debit section,</p> <p>19 there's, you know, a September 21, 2023 payment</p> <p>20 from Takeover to you of \$5,000, correct?</p> <p>21 <b>A Yep.</b></p> <p>22 Q Why did you receive a \$5,000 payment</p> <p>23 from Takeover in September, 2023, which was about</p> <p>24 eight months after you left?</p> <p>25 <b>A That would've been probably the</b></p>	<p>138</p> <p>1 <b>probably still -- I don't remember. 20, 30</b></p> <p>2 <b>remaining, but I just squashed that out.</b></p> <p>3 Q I'm not sure I'm tracking what you're</p> <p>4 saying there. Can you explain that a little more?</p> <p>5 <b>A I probably received about 15 in that</b></p> <p>6 <b>amount of time, and then they probably owed me</b></p> <p>7 <b>another 20, 30. But, you know, they were going</b></p> <p>8 <b>through things, so I wasn't worried about it.</b></p> <p>9 Q So if I'm understanding you, you</p> <p>10 believe you were supposed to be receiving in total</p> <p>11 35 to \$45,000, correct?</p> <p>12 <b>A I believe so. I don't recall. I got</b></p> <p>13 <b>to go back and look.</b></p> <p>14 Q Okay. But you're telling me that you</p> <p>15 think you only actually received \$15,000 of that.</p> <p>16 Is that what you're telling me?</p> <p>17 <b>A That's what it looks like, I believe</b></p> <p>18 <b>so. But I'm not -- I couldn't be confident.</b></p> <p>19 Q And when did you enter into this</p> <p>20 agreement with Takeover?</p> <p>21 <b>A December, 2022, I believe. I don't</b></p> <p>22 <b>recall. Everything's -- everything was -- once we</b></p> <p>23 <b>took the company over, everything was detailed</b></p> <p>24 <b>that we did, because of Jason. So everything was</b></p> <p>25 <b>written down. Everything was spelled out.</b></p>
<p>137</p> <p>1 <b>remainder of what I was getting from them.</b></p> <p>2 Q What do you mean the remainder of what</p> <p>3 you were getting?</p> <p>4 <b>A The remainder of my settlement, I</b></p> <p>5 <b>believe, but I don't recall.</b></p> <p>6 Q Well, so September, 2023 is before</p> <p>7 December, 2023. So why are you saying it's the</p> <p>8 remainder?</p> <p>9 <b>A 9-22-23? Hold on a second. I'm trying</b></p> <p>10 <b>to see what that -- that would've been part of my</b></p> <p>11 <b>-- I believe that would've been part of my</b></p> <p>12 <b>settlement agreement.</b></p> <p>13 Q What was your understanding? Because I</p> <p>14 haven't been provided -- I obviously would prefer</p> <p>15 to just look at it, but I haven't seen it. So</p> <p>16 what was your understanding of how the -- the</p> <p>17 settlement as you keep describing it, what was the</p> <p>18 deal?</p> <p>19 <b>A I would get so --</b></p> <p>20 Q What were you --</p> <p>21 <b>A I would get so much upfront, and then</b></p> <p>22 <b>they would get the majority of my shares.</b></p> <p>23 Q How much did you get upfront and how</p> <p>24 much were you supposed to get total?</p> <p>25 <b>A I think I got 15 total and there was</b></p>	<p>139</p> <p>1 <b>Everything was very fine-tooth. We were going</b></p> <p>2 <b>through two audits. We had two different</b></p> <p>3 <b>accounting firms. So everything had to be</b></p> <p>4 <b>checked, double-checked, triple-checked. So even</b></p> <p>5 <b>that process, I know it was a four or five-page</b></p> <p>6 <b>document that I had.</b></p> <p>7 Q And this was a signed agreement between</p> <p>8 you and Takeover; is that correct?</p> <p>9 <b>A Yes, sir. Total separation.</b></p> <p>10 Q So you obviously signed on your own</p> <p>11 behalf. Who signed off on it from the Takeover</p> <p>12 side?</p> <p>13 <b>A I believe it was Tom, and Mike, and</b></p> <p>14 <b>Joe. I believe all of them had to sign up on it.</b></p> <p>15 Q Tom Zarro.</p> <p>16 <b>A Mike Holley.</b></p> <p>17 Q Mike Holley.</p> <p>18 <b>A Joe Pavlik.</b></p> <p>19 Q So I want to make sure the record's</p> <p>20 clear, because we were talking over each other.</p> <p>21 So you're telling me that on behalf of Takeover,</p> <p>22 Tom Zarro, Mike Holley, and Joe Pavlik signed off</p> <p>23 on this settlement that you've been describing; is</p> <p>24 that correct?</p> <p>25 <b>A Yeah, I believe that's how it worked.</b></p>

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18 (140 to 143)

<p>140</p> <p>1 Q Okay. So then I want to ask you about</p> <p>2 -- if we go to DEF-235, in the withdrawal section,</p> <p>3 there's a March 27th, 2023, payment of \$5,000 from</p> <p>4 Takeover to you; do you see that?</p> <p>5 A Yes, sir.</p> <p>6 Q What was the purpose of that payment?</p> <p>7 A Anything that would've come from them,</p> <p>8 Patrick, would've been part of my settlement</p> <p>9 agreement.</p> <p>10 Q Okay. So your testimony is that even</p> <p>11 though you left the company in January, 2023, you</p> <p>12 were receiving this payment from the company in</p> <p>13 March or on March 27th, 2023 as part of the</p> <p>14 settlement agreement that you've been describing;</p> <p>15 is that correct?</p> <p>16 A Right. Because I didn't get it all</p> <p>17 upfront, I got it pieced. So whenever they could</p> <p>18 manage to give me, they would. I was more than</p> <p>19 cooperative, to put it that way.</p> <p>20 Q And I might have asked you this before,</p> <p>21 but I -- I wanted to make sure just in case I</p> <p>22 didn't. Did Mister -- did you disclose to Mr.</p> <p>23 Deppoleto before you signed it, this settlement</p> <p>24 agreement that you've been referring to?</p> <p>25 A I've had no conversation with -- with</p>	<p>142</p> <p>1 Q Same meaning this was part of your</p> <p>2 settlement agreement, that's why you're receiving</p> <p>3 it?</p> <p>4 A Yes. Yes, sir. They were going to try</p> <p>5 to do one big -- you know, one decent payment, and</p> <p>6 then pay when they could.</p> <p>7 Q So if we go up to DEF-211. It's a</p> <p>8 January 10 payment of \$3,000 to you; do you see</p> <p>9 that?</p> <p>10 A Yeah.</p> <p>11 Q What was that for?</p> <p>12 A Same.</p> <p>13 Q Settlement?</p> <p>14 A Yes, sir.</p> <p>15 Q And then if we go up to DEF-10.</p> <p>16 January 6, 2023, there's a \$2,000 payment from</p> <p>17 Takeover to you, correct?</p> <p>18 A Yes. See, they were piecing them.</p> <p>19 Yeah. Yes, sir, same.</p> <p>20 Q This was part of your settlement?</p> <p>21 A Yes, sir.</p> <p>22 MR. BENNION: I'm just going to state</p> <p>23 an objection to the form of the question.</p> <p>24 MR. HARVEY: Okay.</p> <p>25 MR. BENNION: And -- in -- in concert</p>
<p>141</p> <p>1 your client.</p> <p>2 Q To your knowledge, did anyone from</p> <p>3 Takeover disclose this settlement agreement to Mr.</p> <p>4 Deppoleto before it was executed?</p> <p>5 A I don't believe so, but this is public</p> <p>6 information, so --</p> <p>7 Q So then --</p> <p>8 A Okay.</p> <p>9 Q -- if we go up to DEF-234. On March 2,</p> <p>10 2023, we see another payment from Takeover to you</p> <p>11 of \$4,000, correct?</p> <p>12 A Yep.</p> <p>13 Q And this was, again, after you had</p> <p>14 already left the company, correct?</p> <p>15 A Yes, sir.</p> <p>16 Q And what was this payment for?</p> <p>17 A That's part of my settlement.</p> <p>18 Q Okay. And then if we go up to --</p> <p>19 A I believe the first one was in January</p> <p>20 or February --</p> <p>21 Q Okay.</p> <p>22 A -- I believe.</p> <p>23 Q DEF-222. We've got a February transfer</p> <p>24 of \$5,000 from Takeover to you, correct?</p> <p>25 A Same.</p>	<p>143</p> <p>1 with the prior questions, where the dates were</p> <p>2 rattled off very quickly, Counsel. There were, I</p> <p>3 think you said, 31 dates. And there was testimony</p> <p>4 received by Mr. McBride at that time. My question</p> <p>5 is foundation because now we're going back</p> <p>6 through, it looks like, each of those transactions</p> <p>7 with different questions. So I just want to state</p> <p>8 that for the record.</p> <p>9 BY MR. HARVEY:</p> <p>10 Q So then, if we look at DEF-197. On</p> <p>11 12/19, 2022, there's a \$3,200 payment to you from</p> <p>12 Takeover, correct?</p> <p>13 A Right.</p> <p>14 Q What was this payment for?</p> <p>15 A That would've just been part of just</p> <p>16 getting caught up because I hadn't been paid,</p> <p>17 probably, since September, October, November of</p> <p>18 that whole year. So that's pretty much all we</p> <p>19 could manage to take care of, bills that were</p> <p>20 stacking up on us, that I recall, so 3200.</p> <p>21 Q When you -- I'm sorry, I thought you</p> <p>22 were done. When you say getting caught up, what</p> <p>23 do you mean? What specifically? Why did you</p> <p>24 receive that payment?</p> <p>25 A We didn't take -- to my recollection,</p>

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<p>144</p> <p>1 we didn't take any -- any salary or anything. We</p> <p>2 were trying to get the account squared. Once we</p> <p>3 got it back, we tried to take care of Michael and</p> <p>4 Michael, and get them caught up before we had to</p> <p>5 unfortunately let them go.</p> <p>6 Q So you're saying this December 19, 2022</p> <p>7 payment was payroll?</p> <p>8 A I believe so.</p> <p>9 Q Okay. And so, anything that you</p> <p>10 received from the company before December 19,</p> <p>11 2022, is it your testimony that that was all</p> <p>12 payroll?</p> <p>13 A I believe so, yes, sir.</p> <p>14 Q But you're not positive? You keep</p> <p>15 saying I believe so.</p> <p>16 A Like I said, I have no access to the</p> <p>17 account. So anything that would've came to me</p> <p>18 would've been part of payroll, until after I left.</p> <p>19 Anything after I left would've been part of my</p> <p>20 settlement agreement.</p> <p>21 Q Have you received any payments from</p> <p>22 Takeover since December 6, 2023?</p> <p>23 A I don't believe so.</p> <p>24 Q Are you aware that Michael Holley</p> <p>25 charged personal expenses to Takeover?</p>	<p>146</p> <p>1 in the hospital.</p> <p>2 Q I -- I didn't hear the last part of</p> <p>3 your answer, I'm sorry.</p> <p>4 A I said possibly one when he was in the</p> <p>5 hospital.</p> <p>6 Q I'm going to show you another exhibit</p> <p>7 now.</p> <p>8 MR. HARVEY: We'll mark -- is this</p> <p>9 Exhibit 4? I'm sorry, I lost count.</p> <p>10 THE REPORTER: Sorry. Give me one</p> <p>11 moment.</p> <p>12 MR. BENNION: Counsel, are we at a good</p> <p>13 time for a stopping break, maybe in the next 10 or</p> <p>14 15 minutes?</p> <p>15 MR. HARVEY: Yeah. Next 10 or 15</p> <p>16 minutes, maybe even closer to five.</p> <p>17 MR. BENNION: Okay.</p> <p>18 THE REPORTER: And yeah, so this would</p> <p>19 be 4.</p> <p>20 MR. HARVEY: Okay. Thank you.</p> <p>21 (EXHIBIT 4 MARKED FOR IDENTIFICATION)</p> <p>22 BY MR. HARVEY:</p> <p>23 Q So I'm showing you what we've marked as</p> <p>24 Exhibit 4. This is Bates labeled, on the first</p> <p>25 page anyways, DEF-560. And there's a couple</p>
<p>145</p> <p>1 MR. BENNION: Going to state an</p> <p>2 objection. Lacks foundation. Calls for</p> <p>3 speculation. Go ahead.</p> <p>4 MR. HARVEY: Go ahead, Mr. McBride.</p> <p>5 THE WITNESS: I -- I don't -- I don't</p> <p>6 think so. I don't recall any of that.</p> <p>7 BY MR. HARVEY:</p> <p>8 Q You were never aware of Mr. Holley</p> <p>9 charging personal expenses to Takeover?</p> <p>10 A No.</p> <p>11 Q Do you remember allegations about Mr.</p> <p>12 Holley charging personal expenses to Takeover?</p> <p>13 A Yeah, from Jason.</p> <p>14 Q Do you remember what the dollar amount</p> <p>15 he was alleged to have taken?</p> <p>16 A I couldn't tell you. It was some</p> <p>17 exaggerated number by Jason Tucker.</p> <p>18 Q Do you know when Mr. Holley was alleged</p> <p>19 to have charged personal expenses to Takeover?</p> <p>20 A Jason was forming his plot was when</p> <p>21 Mike was in the hospital sick, I believe at late</p> <p>22 October, early November.</p> <p>23 Q Did Mr. Holley's family members make</p> <p>24 personal purchases that were charged to Takeover?</p> <p>25 A I don't recall. Probably when he was</p>	<p>147</p> <p>1 emails in here.</p> <p>2 The one I wanted to ask you about</p> <p>3 is this Jason Tucker e-mail dated March 2, 2022;</p> <p>4 do you see that?</p> <p>5 A Yes.</p> <p>6 Q And you were copied on this e-mail,</p> <p>7 correct?</p> <p>8 A Yep.</p> <p>9 Q Go ahead and read it to yourself real</p> <p>10 quickly, and then I just want to ask you a quick</p> <p>11 question about it.</p> <p>12 A I've seen this before.</p> <p>13 Q Okay. Have you read it before?</p> <p>14 A Right. Yes, sir.</p> <p>15 Q Okay. You see the line where he says.</p> <p>16 Again, I appreciate you</p> <p>17 understanding the situation that Holley placed us</p> <p>18 in.</p> <p>19 A Yeah.</p> <p>20 Q Do you know what he's referring to as,</p> <p>21 the situation that Holley placed us in?</p> <p>22 A Jason had a very particular way of</p> <p>23 putting blame on somebody else for his faults, of</p> <p>24 what he was doing. So again, he was trying to say</p> <p>25 Mike took money. Mike never took money. That was</p>

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<p>148</p> <p>1 <b>proven in court that Mike never took anything. So</b>  2 <b>he was just lying to Tom Zarro about payments.</b>  3 <b>And, mind you, he talked to Tom once or twice a</b>  4 <b>week, so this e-mail is just to back up his</b>  5 <b>bullshit lies.</b>  6 Q So this is dated March 2, 2022, which  7 is much earlier than the time frame you were just  8 referring to a couple of moments ago. Because you  9 were anchoring it to when Mr. Holley was in the  10 hospital, I thought?  11 MR. BENNION: Objection. Vague and  12 ambiguous. Go ahead.  13 THE WITNESS: Mike was in November of  14 2021.  15 BY MR. HARVEY:  16 Q He was in the hospital November 2021?  17 A <b>Pretty much the whole month.</b>  18 Q Okay. So this -- at least as of March  19 2, 2022, someone was raising allegations that Mr.  20 Holley had wrongfully used Takeover money, correct?  21 A <b>Yeah, Jason. He was making things up.</b>  22 Q And before Mr. Deppoleto made his first  23 loan to the company in May 2022, did you tell Mr.  24 Deppoleto about these allegations about Mr. Holley  25 wrongfully using Takeover's money?</p>	<p>150</p> <p>1 <b>the truth that it was public information. Isn't</b>  2 <b>this something his attorneys are supposed to do,</b>  3 <b>due diligence? That would be your job, not my</b>  4 <b>job. This was public information. We were a</b>  5 <b>public company, not private, which him and Jason</b>  6 <b>tried to take us private.</b>  7 So yes, he knew. He can sit there  8 and tell you he didn't know. It was public  9 information. He knew at the Dallas event what was  10 going on. He asked me and Joe about it. So to  11 think he didn't know what was going on, he did  12 know what was going on. He had asked me and Joe  13 about it at the Dallas event, when he brought his  14 father. So you can sit there and keep looking  15 like that to me and, like, blah -- blah -- blah,  16 but that's -- that's what happened. You weren't  17 there, I was. This frustrates the shit out of me.  18 How long more do we have? I need  19 a break.  20 Q I had a couple more questions on this  21 e-mail. We should have been past it four minutes  22 ago.  23 A <b>You know, the sarcasm is not going to</b>  24 <b>get anybody anywhere. I need a break.</b>  25 MR. BENNION: I -- I -- hey, I -- I did</p>
<p>149</p> <p>1 A <b>Number one, not my job to tell</b>  2 <b>Deppoleto anything; it's public information.</b>  3 <b>Number two, he talked directly with Jason. Number</b>  4 <b>three, these were lies.</b>  5 Q And again, sir, if you can just stick  6 with my questions, we're going to get out of here  7 a lot more quickly. Before Mr. Deppoleto loaned  8 Takeover the first loan in May 2022, did you tell  9 Mr. Deppoleto about these allegations about Mr.  10 Holley wrongfully using Takeover money?  11 MR. BENNION: I'm going to state an  12 objection.  13 THE WITNESS: I did not.  14 MR. BENNION: Lacks foundation. Calls  15 for speculation. Go ahead.  16 THE WITNESS: I did not, but this is  17 public information. Anthony Pettis knew, Josh  18 knew, anybody that --  19 BY MR. HARVEY:  20 Q Okay, sir --  21 A <b>-- invested in this company knew.</b>  22 Q -- it was a -- it was a simple yes or  23 no question. It was a simple yes or no --  24 A <b>Yes -- but no -- but you don't want --</b>  25 <b>you don't want to hear -- you don't want to hear</b></p>	<p>151</p> <p>1 ask for a break about five minutes ago.  2 THE WITNESS: Yeah, I heard you. So  3 let's just -- let's take one because I'm --  4 MR. BENNION: Hey, Toby -- Toby, please  5 don't talk over me or Mr. Harvey. We have court  6 reporters here recording this. Anyway, Patrick  7 you -- you recall I asked for a break eight  8 minutes ago, be held in 10 to 15 minutes, maybe  9 this is a good time.  10 MR. HARVEY: I had two more questions,  11 so I would like to ask those, and then we can take  12 a break. And if he answers yes or no, we'll be  13 done in 30 seconds.  14 MR. BENNION: Toby, are you okay? You  15 requested a break. He said two more questions.  16 THE WITNESS: Go ahead.  17 BY MR. HARVEY:  18 Q Before May 2022, when Mr. Deppoleto  19 made the first loan, are you aware of anyone from  20 Takeover disclosing these Holley allegations to  21 Mr. Deppoleto?  22 A <b>Me and Joe spoke to him about it in</b>  23 <b>Dallas, and Jason told him when he came out to</b>  24 <b>Mexico. So yes, he was.</b>  25 Q When -- when were the -- I don't know</p>



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<p>1 the dates of Dallas and Mexico. What -- what 2 dates are you talking about? 3 <b>A I couldn't tell you. When his father</b> 4 <b>-- him and his father came out, we discussed this</b> 5 <b>briefly.</b> 6 Q This was before or after May 2022? 7 <b>A I couldn't -- I don't recall. You'd</b> 8 <b>have to look -- you'd have to look at the</b> 9 <b>documents. I don't recall.</b> 10 Q Okay. So then the answer to my 11 question is, you don't know. I asked you if 12 you're aware of anyone telling him before May 2022 13 about these allegations. 14 <b>A I don't.</b> 15 Q Your answer is, I don't know, correct? 16 <b>A I don't recall. Yes. I don't recall.</b> 17 MR. HARVEY: Okay. Yeah. We can take 18 a break now. 19 MR. BENNION: Okay. In 10 minutes? 20 MR. HARVEY: Sure. 21 THE VIDEOGRAPHER: We are going off the 22 record. The time is 9:46 a.m. 23 (OFF THE RECORD) 24 THE VIDEOGRAPHER: We are going back on 25 the record. The time is 10:01 a.m.</p>	<p>152 1 Q All right. I'm going to show you 2 another exhibit. Well, actually, let me back up. 3 Why didn't you attend that 4 December 21, 2021 meeting? 5 <b>A Oh, December 21. Oh, when -- when Mike</b> 6 <b>was -- I'm sorry. I'm thinking later. I'm</b> 7 <b>thinking when we took the company over. My fault.</b> 8 <b>It was just me, Joe, and Mike. I mean, me, Joe,</b> 9 <b>and Jason.</b> 10 Q All right. So let me back up. 11 <b>A Yeah. Sorry.</b> 12 Q 12-21 -- 12-21-2021 is the date I'm 13 asking about. December 21, the year of 2021. 14 <b>A Yes.</b> 15 Q Did you attend that board meeting? 16 <b>A Yeah. It should have been a Zoom call</b> 17 <b>or whatever it was. I forget what it was.</b> 18 Q Okay. Who else attended that meeting? 19 <b>A It should have just been me and Joe</b> 20 <b>Pavlik and Jason Tucker.</b> 21 Q Were you a board member in December 22 2021? 23 <b>A Yes.</b> 24 Q Had you been placed on a leave of 25 absence in September 2021?</p>
<p>153 1 MR. BENNION: Is the screen frozen? 2 Hello? 3 THE WITNESS: I'm here. 4 MR. BENNION: I can hear you, Toby, but 5 I -- it looks like Patrick's screen is frozen. 6 THE VIDEOGRAPHER: Counsel, I'm going 7 to go off record. 8 MR. BENNION: Okay. 9 THE VIDEOGRAPHER: All right. We are 10 going off the record. The time is 10:01 a.m. 11 (OFF THE RECORD) 12 THE VIDEOGRAPHER: We are going back on 13 the record. The time is 10:05 a.m. 14 BY MR. HARVEY: 15 Q Mr. McBride, did you attend Takeover's 16 December 21st, 2021 board meeting? 17 <b>A I did not.</b> 18 Q Do you know what happened at that board 19 meeting? 20 <b>A I do not.</b> 21 Q Did you become aware that at some 22 point, the Takeover board of directors voted to 23 remove Mr. Holley from the Takeover board of 24 directors? 25 <b>A I'm unaware of any of that.</b></p>	<p>154 1 <b>A No.</b> 2 Q Around September 2021, were you placed 3 on a leave of absence? 4 <b>A Would've been '22.</b> 5 Q 2022? Why were you placed on a leave 6 of absence in 2022? 7 <b>A For what we've been discussing, the 240</b> 8 <b>and the payments that I paid back that Jason made</b> 9 <b>up.</b> 10 Q How long were you placed on a leave of 11 absence? 12 <b>A I was actually gone three weeks. And</b> 13 <b>then the Arizona case brought me back probably</b> 14 <b>three to four weeks, so a whole month of October.</b> 15 Q Okay. So at that December 2021 16 meeting, did the vote -- did the board vote to 17 remove Mr. Holley from the Takeover board of 18 directors? 19 <b>A Yes.</b> 20 Q Did you vote in favor of removal? 21 <b>A Unfortunately, yes.</b> 22 Q Did you say unfortunately or 23 fortunately? 24 <b>A Unfortunately.</b> 25 Q And was it a permanent removal or a</p>



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22 (156 to 159)

<p>156</p> <p>1 temporary?</p> <p>2 MR. BENNION: I'm going to state an</p> <p>3 objection that that may call for speculation</p> <p>4 and/or a legal conclusion.</p> <p>5 Go ahead, Toby.</p> <p>6 BY MR. HARVEY:</p> <p>7 Q If you answered, Mr. McBride, I didn't</p> <p>8 hear you.</p> <p>9 A <b>I'm not too sure if it was just</b></p> <p>10 <b>temporary, or there was no -- there was nothing</b></p> <p>11 <b>more to it. So.</b></p> <p>12 Q There was no deadline by which he was</p> <p>13 going to be reinstated? Is that what you're</p> <p>14 saying?</p> <p>15 A <b>That I'm aware of. Yeah.</b></p> <p>16 Q Okay. So it was a permanent removal,</p> <p>17 correct?</p> <p>18 A <b>At -- probably at that time.</b></p> <p>19 MR. BENNION: Same -- same objection.</p> <p>20 Go ahead, Toby. You have to wait</p> <p>21 a minute for me. Allow me to -- to object.</p> <p>22 THE WITNESS: At that time, yes.</p> <p>23 MR. HARVEY: Okay. I'm going to show</p> <p>24 you another exhibit, which is Exhibit 5.</p> <p>25 (EXHIBIT 5 MARKED FOR IDENTIFICATION)</p>	<p>158</p> <p>1 Tucker, including the other folks, via a November</p> <p>2 4, 2022 e-mail, but then Mr. Tucker didn't appear.</p> <p>3 Are you certain that Mr. Tucker called this</p> <p>4 meeting?</p> <p>5 A <b>One second. No, I called. This is --</b></p> <p>6 <b>yeah. I called this.</b></p> <p>7 Q Okay.</p> <p>8 A <b>With Mike and Joe. With Mike and Joe.</b></p> <p>9 <b>Mike --</b></p> <p>10 Q Did you call that --</p> <p>11 THE REPORTER: I'm sorry. I didn't</p> <p>12 catch the end of that answer.</p> <p>13 THE WITNESS: Special meeting, Board of</p> <p>14 Directors, I guess, for -- one second, Counsel.</p> <p>15 Okay.</p> <p>16 MR. BENNION: Patrick, can you -- can</p> <p>17 you enlarge that at all?</p> <p>18 THE WITNESS: Yeah, I'm trying to --</p> <p>19 MR. HARVEY: Yeah, sure.</p> <p>20 THE WITNESS: There we go.</p> <p>21 MR. BENNION: Thank you.</p> <p>22 THE WITNESS: Sorry. Now I can see it.</p> <p>23 I'm getting mixed up with the -- the meeting Jason</p> <p>24 called and the one we called after we -- after I</p> <p>25 got brought back by the judge. Sorry.</p>
<p>157</p> <p>1 BY MR. HARVEY:</p> <p>2 Q Are you able to see my screen?</p> <p>3 A <b>Yes, sir.</b></p> <p>4 Q The top of Exhibit 5, which is Bates</p> <p>5 labeled DEF-1, says, Resolution of Board, sorry,</p> <p>6 Resolution of the Board of Directors of Labor</p> <p>7 Smart, Inc. And it's describing a November 7,</p> <p>8 2022 meeting with you, Mr. Holley, and Mr. Pavlik</p> <p>9 via conference call, correct?</p> <p>10 A <b>Yes, sir.</b></p> <p>11 Q Do you recognize this document?</p> <p>12 A <b>I haven't seen it in a while.</b></p> <p>13 Q But you have seen it before?</p> <p>14 A <b>Yes.</b></p> <p>15 Q Okay. And on the last page, which is</p> <p>16 DEF5, is that your signature?</p> <p>17 A <b>Looks like it.</b></p> <p>18 Q And did you, in fact, attend that board</p> <p>19 meeting on November 7, 2022?</p> <p>20 A <b>I believe so.</b></p> <p>21 Q Did you call the board meeting?</p> <p>22 A <b>No. Jason Tucker did.</b></p> <p>23 Q Jason Tucker called this meeting?</p> <p>24 A <b>Yes.</b></p> <p>25 Q So this says it was noticed to Jason</p>	<p>159</p> <p>1 BY MR. HARVEY:</p> <p>2 Q No problem.</p> <p>3 A <b>It's all around the same --</b></p> <p>4 Q So I think you were saying --</p> <p>5 A <b>-- same months.</b></p> <p>6 Q So I think you were saying you, in</p> <p>7 fact, called this meeting; is that correct?</p> <p>8 A <b>With Joe and Mike, yeah.</b></p> <p>9 Q So you in conjunction with Mr. Holley</p> <p>10 and Mr. Pavlik were the ones who called this board</p> <p>11 meeting, correct?</p> <p>12 A <b>Yes. If this is the one that removes</b></p> <p>13 <b>Jason.</b></p> <p>14 Q Now, as of the moment before this</p> <p>15 meeting started, Michael Holley was no longer on</p> <p>16 the Takeover board of directors, correct?</p> <p>17 A <b>Yes, he was. Because he was taken off</b></p> <p>18 <b>-- he wasn't taken off the right way. So he was</b></p> <p>19 <b>still -- my understanding was, by the courts, he</b></p> <p>20 <b>was still part of the board of directors, because</b></p> <p>21 <b>he wasn't taken off the right way.</b></p> <p>22 Q Between the December 2021 meeting where</p> <p>23 you and others voted Mr. Holley off of the board</p> <p>24 and this November 7, 2022 meeting, there's no</p> <p>25 formal document saying that Mr. Holley was a board</p>

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<p>1 of director of Takeover during that time frame, 2 correct? 3 MR. BENNION: I'm going to state an 4 objection. May call for speculation. 5 Go ahead. 6 THE WITNESS: I'm not aware of that. 7 BY MR. HARVEY: 8 Q Did any board members express concerns 9 to you that Mr. Holley was one of the ones calling 10 a board meeting, even though he was no longer an 11 active member of the board? 12 A I'm not aware of that. 13 Q Did Mr. Tucker express that concern? 14 A No. We only served him by emailing to 15 Veronica, so we wouldn't have heard anything. 16 Q Did either Mr. Tucker or his counsel 17 express that concern? 18 A Not that I recall. 19 Q This whereas clause talking about 20 several minutes before the call, go ahead and read 21 that. Let me know when you're done. 22 A Go ahead. 23 Q Do you remember what Veronica said in 24 her message referred to in that whereas clause? 25 A That they weren't going to attend?</p>	<p>160 1 have communication with them. It would been done 2 through the attorneys. They tried -- 3 Q At this board meeting. Did the board 4 -- well, the people that were at the board 5 meeting, did they vote to suspend Michael Costello 6 from his role as CEO of Labor Smart? 7 A I don't -- I don't recall that. I 8 could be mistaken. Could have happened, but I 9 don't -- I don't remember. 10 Q We go down to DEF-3. The resolved -- 11 second-to-last before the bottom of the page has, 12 Resolved. Michael Costello is suspended from his 13 position as CEO of the company for a period of 30 14 days with pay. And his authority to act on behalf 15 of the company is in all aspects revoked during 16 this period. 17 Did I read that right? 18 A Yes, sir. 19 Q Why was Mr. Costello suspended? 20 A He should have never been on the board 21 in the first place, and Jason was using him to -- 22 to sign off on other things. So that's why he was 23 removed. He was never a board member. He was 24 never an advisor. He was -- he was a sales 25 associate.</p>
<p>1 Q Correct. 2 A Yes, sir. 3 Q Well, did they say anything else about 4 the reasons why they weren't going to attend? 5 A My memory, they were caught. And so 6 was she. That's why they didn't attend it. 7 Q Caught? What do you mean? What do you 8 mean by that? 9 A Caught, meaning Jason's games were 10 unraveled. The -- was -- was unraveling of what 11 he was doing with Veronica, hiding everything, and 12 what he was doing with your client, that we found 13 out everything. That's why he didn't get on this 14 call. Because he was going to be exposed. 15 Q And that's what they said to you? 16 A That's just what we know as fact. I 17 know Jason Tucker. That's why -- 18 Q My question was slightly different. 19 What -- what did they say to you? 20 A Nobody said anything to me. I didn't 21 respond to them. Ryder (phonetic) and Canini did. 22 Q I'm not asking what you said back to 23 them. I'm asking what they reported to you about 24 why they weren't going to be appearing. 25 A I -- I don't -- I don't know. I didn't</p>	<p>161 1 Q Well, this is saying he was the CEO, 2 not a board member. Do you disagree with that? 3 A That CEO reports to Takeover. Has no 4 power. 5 Q The CEO -- 6 A Labor Smart has no power. Has no vote. 7 Has nothing. 8 Q So you're -- so you're telling me that 9 the CEO of Labor Smart reports to Takeover? 10 A Yes. Labor Smart has no power in the 11 board of directors. 12 Q And this is saying he's the CEO of the 13 company, which is defined up top as Labor Smart, 14 not Takeover. Do you see that? Do you see that? 15 A Yeah, I see it. 16 Q What did -- 17 A Go ahead. 18 Q What did Mr. Costello do that merited 19 or justified him being suspended from his position 20 as CEO of Labor Smart? 21 A He was being advised by Jason, number 22 one, about lies that he was spitting to the rest 23 of my team that were exposed and then they were 24 behind the Dollar General deal and that's why he 25 was let go, when we were told -- they were told</p>

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<p>164</p> <p>1 <b>we're not doing the deal.</b></p> <p>2 Q The Dollar General deal was with</p> <p>3 Takeover, though, not with Labor Smart, correct?</p> <p>4 <b>A Exactly.</b></p> <p>5 Q So why suspend him as CEO of Labor</p> <p>6 Smart?</p> <p>7 <b>A They're still one. They're still --</b></p> <p>8 <b>they still coexist with each other, Labor Smart</b></p> <p>9 <b>and -- it's still -- Labor Smart is the shell,</b></p> <p>10 <b>Takeover is the -- the way I understand, it's a</b></p> <p>11 <b>subsidiary of Labor Smart. You'd have to get more</b></p> <p>12 <b>into the weeds with Mike on that. I'm not the guy</b></p> <p>13 <b>to be asking that question.</b></p> <p>14 Q So you defer to Mr. Holley in terms of</p> <p>15 corporate governance between --</p> <p>16 <b>A Yeah.</b></p> <p>17 Q -- Labor Smart and Takeover?</p> <p>18 <b>A Yeah.</b></p> <p>19 Q Is that fair?</p> <p>20 <b>A Yes, sir. More of a --</b></p> <p>21 Q Okay.</p> <p>22 <b>A -- so you can understand it, whereas</b></p> <p>23 <b>I'm going to combobulate it more. Sorry.</b></p> <p>24 Q No problem. So then if we look at</p> <p>25 DEF-4, it's referring to -- let's see. The fourth</p>	<p>166</p> <p>1 Q You said Tucker was changing notes?</p> <p>2 <b>A Terms, my bylaws, with the knowledge of</b></p> <p>3 <b>attorneys that were involved in it, meaning --</b></p> <p>4 Q I'm just focusing on the notes. You --</p> <p>5 I'm just focusing on the notes. You said that</p> <p>6 Tucker was changing notes. Did I hear you</p> <p>7 correctly?</p> <p>8 <b>A He was changing the terms of the notes.</b></p> <p>9 <b>Me and Joe had signed the first two, I believe.</b></p> <p>10 <b>And then there was three or four after that.</b></p> <p>11 <b>That's where Costello got brought into. Costello</b></p> <p>12 <b>had no proof of anything. Costello had no power</b></p> <p>13 <b>to sign anything.</b></p> <p>14 Q So you said a lot there. I'm trying to</p> <p>15 understand. Are you talking about Mr. Deppoleto's</p> <p>16 notes or other notes?</p> <p>17 <b>A That James Deppoleto was the only note</b></p> <p>18 <b>we were -- we were dealing with.</b></p> <p>19 Q And you said you and Mr. Pavlik signed</p> <p>20 off on two previous notes?</p> <p>21 <b>A The first -- or the first two revisions</b></p> <p>22 <b>we were in agreement with. Anything after that</b></p> <p>23 <b>things were changed that we found out about.</b></p> <p>24 <b>That's why the note is in dispute. It's because</b></p> <p>25 <b>the note was --</b></p>
<p>165</p> <p>1 resolved from the bottom is referring to a planned</p> <p>2 spinoff of Takeover being suspended for 90 days.</p> <p>3 Do you see that?</p> <p>4 <b>A Yes, sir.</b></p> <p>5 Q What's the planned spinoff of Takeover?</p> <p>6 What's that referring to?</p> <p>7 <b>A I don't recall.</b></p> <p>8 Q It also says that Labor Smart was going</p> <p>9 to undertake a review of documents and information</p> <p>10 concerning the transaction. Do you see that?</p> <p>11 <b>A Yes, sir.</b></p> <p>12 Q Do you know whether Labor Smart in fact</p> <p>13 conducted a review of documents and information</p> <p>14 concerning the transaction?</p> <p>15 <b>A The day that we took over the company,</b></p> <p>16 <b>we had auditors and accountants going through</b></p> <p>17 <b>everything, on top of our attorneys. Attorneys,</b></p> <p>18 <b>meaning Ryder and -- and Mike's lawyer, so.</b></p> <p>19 Q What did that review -- what did that</p> <p>20 review reveal?</p> <p>21 <b>A That Tucker was taking money, that</b></p> <p>22 <b>Tucker was forging documents, that Tucker was</b></p> <p>23 <b>changing notes to benefit Deppoleto, that there</b></p> <p>24 <b>was -- there was a plethora of -- of things. I</b></p> <p>25 <b>can't recall everything.</b></p>	<p>167</p> <p>1 Q Have you -- have you reviewed Mr.</p> <p>2 Holley's deposition testimony as the corporate</p> <p>3 representative for Takeover?</p> <p>4 <b>A No.</b></p> <p>5 Q Have you spoken to Mr. Holley about his</p> <p>6 deposition testimony as the corporate</p> <p>7 representative for Takeover?</p> <p>8 <b>A No.</b></p> <p>9 Q As between you and Mr. Holley -- well,</p> <p>10 strike that.</p> <p>11 Taking you back to this document,</p> <p>12 at the end of that review that you were referring</p> <p>13 to, what was Labor Smart's decision regarding the</p> <p>14 planned spinoff?</p> <p>15 <b>A I don't recall.</b></p> <p>16 Q Was the decision to move forward with</p> <p>17 it?</p> <p>18 <b>A I don't recall. I was basically</b></p> <p>19 <b>working my way out to separate myself from</b></p> <p>20 <b>everything.</b></p> <p>21 Q If you were already doing that, why</p> <p>22 were you voting on these issues at this meeting?</p> <p>23 <b>A Well, this was in the beginning of it.</b></p> <p>24 <b>When the review was done, it took a couple of</b></p> <p>25 <b>months to figure all this stuff out.</b></p>

<p>168</p> <p>1 Q During this meeting, it was resolved</p> <p>2 that you would remain on Takeover's board of</p> <p>3 directors, correct?</p> <p>4 A I believe so.</p> <p>5 Q Okay. I'm going to take this one down,</p> <p>6 show you another one.</p> <p>7 Are you able to see this document?</p> <p>8 A Yeah.</p> <p>9 Q It says, Written Consent, Board of</p> <p>10 Directors of Takeover Industries, Inc., correct?</p> <p>11 A Correct.</p> <p>12 MR. BENNION: Is this Exhibit 6?</p> <p>13 MR. HARVEY: Yes. Thank you for</p> <p>14 reminding me.</p> <p>15 This will be Exhibit 6.</p> <p>16 (EXHIBIT 6 MARKED FOR IDENTIFICATION)</p> <p>17 BY MR. HARVEY:</p> <p>18 Q And this is referring to that November</p> <p>19 7, 2022 meeting, correct?</p> <p>20 A Yes, sir.</p> <p>21 Q At the bottom of this page, which is</p> <p>22 DEF-11, is that your signature?</p> <p>23 A Yes.</p> <p>24 Q Now, you only signed as to Resolutions</p> <p>25 1 through 6 and 8, but you abstained from 7,</p>	<p>170</p> <p>1 it would've been done through.</p> <p>2 Q Are you aware of any officer or</p> <p>3 director of Takeover seeking Mr. Deppoleto's</p> <p>4 consent before you were appointed a CEO?</p> <p>5 A Not to my recollection.</p> <p>6 Q Are you aware of any lawyer seeking --</p> <p>7 or any of Takeover's lawyers seeking Mr.</p> <p>8 Deppoleto's written consent before you were</p> <p>9 appointed as CEO?</p> <p>10 A Not to my recollection.</p> <p>11 Q After your reappointment to CEO, did</p> <p>12 you have access to Takeover's website?</p> <p>13 A I never had access to it.</p> <p>14 Q At any point after you were reappointed</p> <p>15 as CEO?</p> <p>16 A No.</p> <p>17 Q Did you take any actions, direct or</p> <p>18 indirect, that would affect what was on the</p> <p>19 website?</p> <p>20 A I had no -- I had no access to the</p> <p>21 website or social media.</p> <p>22 Q Who did?</p> <p>23 A I couldn't tell you.</p> <p>24 Q After your reappointment, did you</p> <p>25 become involved with Takeover's online sales?</p>
<p>169</p> <p>1 correct?</p> <p>2 A If that's what it says.</p> <p>3 Q Why did you abstain from Resolution 7?</p> <p>4 A I don't -- I don't recall.</p> <p>5 Q Okay. At numbered Paragraph 7, It is</p> <p>6 resolved: Toby McBride is reappointed as CEO of</p> <p>7 Takeover and any leave of absence or revocation of</p> <p>8 his authority to act on Takeover's behalf -- I</p> <p>9 think that's supposed to be is, not his, thereby</p> <p>10 terminated; is that right? Did I read that right?</p> <p>11 A I believe that's what it says.</p> <p>12 Q So you were reappointed as CEO of</p> <p>13 Takeover, correct?</p> <p>14 A Yes.</p> <p>15 Q Did Mr. Deppoleto provide written</p> <p>16 consent before you were reappointed as CEO?</p> <p>17 A I don't recall.</p> <p>18 Q Did you ever seek Mr. Deppoleto's</p> <p>19 written consent before you were reappointed as CEO?</p> <p>20 A I don't recall. That would've had to</p> <p>21 come from our attorneys. We had no conversation --</p> <p>22 Q Are you aware of any -- I'm sorry. Go</p> <p>23 ahead.</p> <p>24 A We had no communication with him. He</p> <p>25 did everything through the lawyers, so that's who</p>	<p>171</p> <p>1 A No. I was too busy fighting Jason</p> <p>2 Tucker.</p> <p>3 Q After your reappointment as CEO, did</p> <p>4 you make any public statements to the effect that</p> <p>5 you were back in control at Takeover?</p> <p>6 A I don't recall.</p> <p>7 Q Did you tell any of Takeover's</p> <p>8 investors that you were back in control at</p> <p>9 Takeover?</p> <p>10 A I would've never said I was in control</p> <p>11 of Takeover. It would've been me, Joe, and Mike</p> <p>12 got the company back from Jason.</p> <p>13 Q Who solicited Mr. Deppoleto's first</p> <p>14 loan to Takeover?</p> <p>15 A Soliciting? You mean brought him in?</p> <p>16 Q Asked him to give the loan?</p> <p>17 A James had called me two or three times</p> <p>18 after I met Anthony and Josh in Florida the first</p> <p>19 time. And then, like I said, I didn't know him --</p> <p>20 Q Were you the first --</p> <p>21 A -- when I met him.</p> <p>22 Q Go ahead. I'm sorry. I thought you</p> <p>23 were done.</p> <p>24 A I said that I didn't know who he was</p> <p>25 until I met him. I thought he was just some buddy</p>

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<p>172</p> <p>1 of-- of Anthony's and Josh's and had no idea who</p> <p>2 he was. Nice guy. I talked to him on the phone,</p> <p>3 but I never solicited him for money.</p> <p>4 Q So it's your --</p> <p>5 A I never asked him for money. I never</p> <p>6 -- it got brought to me.</p> <p>7 Q So it's your testimony that, out of the</p> <p>8 people affiliated with Takeover, you had the first</p> <p>9 contact with Mr. Deppoleto about any sort of loan</p> <p>10 or investment. Is that what you're telling me?</p> <p>11 A It would've been Jason and then it</p> <p>12 would've been -- then I chatted with him after</p> <p>13 that, but it was more -- more --</p> <p>14 Q Mr. Tucker?</p> <p>15 A -- more personal than -- I never got</p> <p>16 into money conversations. It was just him getting</p> <p>17 to know me and Joe, feel more comfortable about</p> <p>18 what he was getting into. And it wasn't for that</p> <p>19 much money. It was for four. I never came after</p> <p>20 him for a million or four. I -- he wanted to come</p> <p>21 in and be an exclusive and I was against it.</p> <p>22 Like, no, we don't just want one person so -- but</p> <p>23 he was a nice guy. We met in Dallas with him and</p> <p>24 his father, like I said, and it was more personal.</p> <p>25 We didn't talk money. Not that I recall. I knew</p>	<p>174</p> <p>1 A Probably two weeks after I got back is</p> <p>2 when I knew he wanted to come in and I believe it</p> <p>3 was 400 was his first. I could be wrong, but --</p> <p>4 Q Two weeks after you got back, what --</p> <p>5 help me with the time frame. When -- what does</p> <p>6 that mean?</p> <p>7 A That means discussions were, you know,</p> <p>8 hey, do we want to do this? Let's get paperwork</p> <p>9 moving and --</p> <p>10 Q Got back from where, and when was that</p> <p>11 trip is a better to ask it?</p> <p>12 A I -- I got back from Fort Lauderdale</p> <p>13 when we first got involved with the PFL. They</p> <p>14 brought me and Trevor out to -- I forget. The</p> <p>15 hotel with the guitar on it is where they had</p> <p>16 their first thing at so we could see what was</p> <p>17 going on. I believe it was late -- was it when</p> <p>18 Mike was in the -- I think it was before Mike went</p> <p>19 in the hospital. So it could have been August of</p> <p>20 '21. Yeah, it could have been then. Yeah. It</p> <p>21 probably was August of '21. I'm not too sure,</p> <p>22 Patrick.</p> <p>23 Q So it -- roughly speaking, it was two</p> <p>24 weeks after this trip to Fort Lauderdale, and you</p> <p>25 understood that Mr. Deppoleto was talking to Mr.</p>
<p>173</p> <p>1 --</p> <p>2 Q So Mr. Tucker was the first one?</p> <p>3 A Yes. I would've pushed everything --</p> <p>4 Q Mr. Tucker --</p> <p>5 A -- on Jason and Mike at that time.</p> <p>6 Q We're talking over each other. I just</p> <p>7 want to make the -- sure the record is clear. So</p> <p>8 Mr. Tucker was the first person from Takeover to</p> <p>9 solicit Mr. Deppoleto when it came to loans; is</p> <p>10 that correct?</p> <p>11 A If he wanted -- if he wanted to invest,</p> <p>12 yes. It wouldn't have been me.</p> <p>13 Q Do you know when those discussions</p> <p>14 between Mr. Deppoleto and Mr. Tucker began?</p> <p>15 A Immediately after I got back from</p> <p>16 Florida the first time.</p> <p>17 Q Okay. I thought you said you didn't</p> <p>18 talk about money with Mr. Deppoleto?</p> <p>19 A I don't -- I don't talk money with</p> <p>20 anybody, with -- with investors. I have them talk</p> <p>21 to Mike or -- or Jason.</p> <p>22 Q Okay. And so the answer very well</p> <p>23 could be you don't know, but when did discussions</p> <p>24 between Takeover and Mr. Deppoleto begin about a</p> <p>25 potential loan?</p>	<p>175</p> <p>1 Tucker about a potential loan and you heard about</p> <p>2 it from Mr. Tucker; is that fair?</p> <p>3 A James had called me once or twice just</p> <p>4 to talk because I didn't know who he was. I just</p> <p>5 knew he was attached to Anthony somehow, so I was</p> <p>6 okay with it. Because we wanted to just let</p> <p>7 certain people in. We didn't want a lot of people</p> <p>8 involved. I think you could understand that. So,</p> <p>9 even Anthony --</p> <p>10 Q Why did Takeover -- why did Takeover</p> <p>11 solicit Mr. Deppoleto's loan?</p> <p>12 A The way I understand it, he wanted to</p> <p>13 come in because Anthony was coming in. Anthony</p> <p>14 had already owned shares of LTNC and the stock was</p> <p>15 climbing, climbing, climbing, so Anthony had no</p> <p>16 idea it was me behind it until he saw me at the</p> <p>17 fight.</p> <p>18 Q How did Takeover use the first 1.5</p> <p>19 million in funds that Mr. Deppoleto provided?</p> <p>20 A I couldn't tell you. I never saw that</p> <p>21 money. I -- I know where I think it went now. It</p> <p>22 went to making the shots that we were against the</p> <p>23 Dollar General, which we'd have never done that</p> <p>24 deal. I'd have never spent 1.5. It's absolutely</p> <p>25 -- makes me throw up.</p>



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<p>176</p> <p>1 Q Were any of Mr. Deppoleto's funds used</p> <p>2 for salaries?</p> <p>3 A <b>No. There was money in the bank to</b></p> <p>4 <b>make our payroll. That's ridiculous.</b></p> <p>5 Q If there was, why were you getting</p> <p>6 inconsistent payroll payments?</p> <p>7 A <b>We would wait for money to come in and</b></p> <p>8 <b>I'd make sure my -- our guys were taken care of</b></p> <p>9 <b>before I was.</b></p> <p>10 Q Well, I thought you said you had money</p> <p>11 in the bank already.</p> <p>12 A <b>Yeah. But when you're running a</b></p> <p>13 <b>beverage company or company, it -- it -- it -- it</b></p> <p>14 <b>could go all in within a week or two and then, you</b></p> <p>15 <b>know, POs come right back in again. So it's not</b></p> <p>16 <b>-- nothing's ever real consistent.</b></p> <p>17 Q So is it your testimony that none of</p> <p>18 Mr. Deppoleto's loans were used for salary for</p> <p>19 yourself?</p> <p>20 A <b>Not that I'm aware of. I had no access</b></p> <p>21 <b>to the bank account.</b></p> <p>22 Q So if it was used for salary, you</p> <p>23 wouldn't know because you didn't have access to</p> <p>24 the bank account; is that fair?</p> <p>25 A <b>Exactly. Jason Tucker was the only</b></p>	<p>178</p> <p>1 you want to see them.</p> <p>2 A <b>Yeah.</b></p> <p>3 Q But the first three notes totals 1</p> <p>4 point something --</p> <p>5 A <b>No, I believe you. I --</b></p> <p>6 THE REPORTER: I'm sorry. I'm sorry.</p> <p>7 One at a time.</p> <p>8 THE WITNESS: I believe you, Patrick.</p> <p>9 BY MR. HARVEY:</p> <p>10 Q Okay. So set aside the 1.5 million for</p> <p>11 those first three notes, I'm -- I'm -- for</p> <p>12 purposes of this question or this line of</p> <p>13 questioning, I'm asking you a slightly different</p> <p>14 one. Setting aside the 1.5 million that was</p> <p>15 documented in those first three notes, you're</p> <p>16 aware that Mr. Deppoleto is alleging that he also</p> <p>17 loaned an additional 500,000, which would bring</p> <p>18 the total to a little over 2 million in</p> <p>19 supplemental loans, correct?</p> <p>20 A <b>All I remember is the first one that</b></p> <p>21 <b>was smaller. The four to three to five, whatever</b></p> <p>22 <b>that was. That was his first one. Anything after</b></p> <p>23 <b>that would have been Jason. I wouldn't have known</b></p> <p>24 <b>--</b></p> <p>25 Q And maybe I'm -- maybe I'm not being</p>
<p>177</p> <p>1 <b>access to the bank account.</b></p> <p>2 Q And so you don't know how those funds</p> <p>3 were spent at all, fair?</p> <p>4 A <b>Fair.</b></p> <p>5 Q Okay. Just one second. I want to look</p> <p>6 at one thing. You're aware that in addition to</p> <p>7 the 1.5 million in loans that Mr. Deppoleto</p> <p>8 provided via the notes, Mr. Deppoleto is also</p> <p>9 alleging that he provided about 500,000 more than</p> <p>10 that in supplemental loans that were not</p> <p>11 documented via the same type of note as the first</p> <p>12 three loans. Are you -- you're aware of that?</p> <p>13 A <b>I believe his first note with -- with</b></p> <p>14 <b>us is what I just told you about, was between four</b></p> <p>15 <b>and whatever it was. I -- I don't know the exact</b></p> <p>16 <b>number. But Jason would've handled all that.</b></p> <p>17 Q And I -- yeah. And I'm -- I'm putting</p> <p>18 the notes aside and I -- I had four or five pages</p> <p>19 of questions about those notes and I was going to</p> <p>20 show them to you, but I thought you'd --</p> <p>21 A <b>I'm not going to --</b></p> <p>22 Q -- appreciate it.</p> <p>23 A <b>Sorry.</b></p> <p>24 Q Okay. So, yeah, I'm putting the notes</p> <p>25 to the side. I'll just represent to you unless</p>	<p>179</p> <p>1 clear here. Did you read the complaint in this</p> <p>2 case?</p> <p>3 A <b>Yeah.</b></p> <p>4 Q And you understand that Mr. Deppoleto's</p> <p>5 damages claim is for a little over 2 million,</p> <p>6 correct?</p> <p>7 A <b>Yes.</b></p> <p>8 Q You got to say yes or no.</p> <p>9 A <b>Yes, sir. Sorry.</b></p> <p>10 Q And -- and out of that a little more</p> <p>11 than 2 million, 1.5 million is related to three</p> <p>12 separate written notes, correct?</p> <p>13 A <b>Okay. I believe so. I -- I --</b></p> <p>14 Q So set those --</p> <p>15 A <b>-- believe what you're saying.</b></p> <p>16 Q Set those three notes aside for the</p> <p>17 moment. I want to focus on that additional</p> <p>18 500,000, that would put the total up to over 2</p> <p>19 million. Are we on the same page?</p> <p>20 A <b>Okay.</b></p> <p>21 Q Okay. Mr. Deppoleto loaned Takeover</p> <p>22 386,000 and change in October 2022, correct?</p> <p>23 MR. BENNION: I'm going to object to</p> <p>24 the form of the question. Lacks foundation.</p> <p>25 Calls for speculation. May call for a legal</p>



Transcript of Toby McBride, Volume II  
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28 (180 to 183)

<p>180</p> <p>1 conclusion. Go ahead, Toby.</p> <p>2 THE WITNESS: I don't recall. I had no</p> <p>3 access, Patrick, to the account or seeing things</p> <p>4 come in, or how bills were paid out by whoever.</p> <p>5 You know, I had no access to it.</p> <p>6 BY MR. HARVEY:</p> <p>7 Q You were the CEO of Takeover in October</p> <p>8 2022, correct?</p> <p>9 A <b>Yep.</b></p> <p>10 Q You don't know whether Mr. Deppoleto</p> <p>11 provided --</p> <p>12 A <b>Well, no, I wasn't. No, I was not. I</b></p> <p>13 <b>was suspended.</b></p> <p>14 Q Okay.</p> <p>15 A <b>Sorry.</b></p> <p>16 Q No problem. Were you still suspended</p> <p>17 -- well, give me one moment here. I want to make</p> <p>18 sure the date that I'm asking you about is</p> <p>19 correct. Were you still suspended as of November</p> <p>20 4th, 2022?</p> <p>21 A <b>Yes, sir.</b></p> <p>22 Q Okay. And when you say suspended, were</p> <p>23 you just suspended as your role as CEO or were you</p> <p>24 totally out of the company while you were on</p> <p>25 suspension?</p>	<p>182</p> <p>1 BY MR. HARVEY:</p> <p>2 Q A shot company?</p> <p>3 A <b>They make stuff for -- they make, like,</b></p> <p>4 <b>sites that --</b></p> <p>5 Q Displays?</p> <p>6 A <b>There you go.</b></p> <p>7 THE REPORTER: I -- I missed what you</p> <p>8 had said.</p> <p>9 BY MR. HARVEY:</p> <p>10 Q Is that --</p> <p>11 THE REPORTER: What they --</p> <p>12 MR. HARVEY: I'm sorry.</p> <p>13 THE REPORTER: I missed what -- what</p> <p>14 they make.</p> <p>15 THE WITNESS: I believe that's who they</p> <p>16 are, Patrick. I can't tell you right now.</p> <p>17 THE REPORTER: No. I -- I'm just</p> <p>18 saying I missed what Patrick --</p> <p>19 MR. HARVEY: For the court reporter.</p> <p>20 THE REPORTER: Yeah.</p> <p>21 MR. HARVEY: Yeah. Yeah. I'll -- I'll</p> <p>22 clear it up. I'll clear it up.</p> <p>23 BY MR. HARVEY:</p> <p>24 Q For the court reporter's benefit, you</p> <p>25 think Great Northern Corp. makes displays?</p>
<p>181</p> <p>1 A <b>I had no access to my employees or</b></p> <p>2 <b>anything.</b></p> <p>3 Q Okay.</p> <p>4 A <b>Just my attorney.</b></p> <p>5 Q Okay. So if money from Mr. Deppoleto</p> <p>6 came in -- well, and I know the answer to this,</p> <p>7 but let me make sure it's clear in the transcript</p> <p>8 -- during October -- well, strike that.</p> <p>9 So if Mr. Deppoleto was asked to</p> <p>10 provide supplemental loans totaling a little over</p> <p>11 500,000 between October 22 and November 4, 2022,</p> <p>12 because you were frozen onto the company, you</p> <p>13 would have no way of knowing whether he was, in</p> <p>14 fact, asked to provide loans in that dollar</p> <p>15 amount, correct?</p> <p>16 A <b>Correct. I'm sure.</b></p> <p>17 Q Okay. Are you familiar with a company</p> <p>18 called Great Northern Corp. or Corporation based</p> <p>19 out of Appleton?</p> <p>20 A <b>Great Northern. Great Northern. Great</b></p> <p>21 <b>Northern.</b></p> <p>22 MR. BENNION: Appleton, Wisconsin.</p> <p>23 THE WITNESS: That's -- that sounds</p> <p>24 like a -- that sounds like a shot company, or --</p> <p>25 or -- or --</p>	<p>183</p> <p>1 A <b>I believe that's who they are. They --</b></p> <p>2 <b>they bring the shots in, they fill the shots, they</b></p> <p>3 <b>make the displays, they send them out. That's</b></p> <p>4 <b>what we -- I believe that's what we found out.</b></p> <p>5 Q Okay. And so Great Northern Corp. was</p> <p>6 a company that Takeover did business with, correct?</p> <p>7 A <b>Not to my knowledge. We didn't find</b></p> <p>8 <b>this out till I came back. I had no knowledge --</b></p> <p>9 Q When you say we didn't find this out?</p> <p>10 A <b>I had no knowledge of it.</b></p> <p>11 Q So Takeover did business with Great</p> <p>12 Northern Corp., you just didn't find out about</p> <p>13 that until after the fact, is that what you're</p> <p>14 saying?</p> <p>15 A <b>Well, Jason Tucker --</b></p> <p>16 MR. BENNION: Objection. Objection.</p> <p>17 Calls for a legal conclusion. Go ahead, Toby.</p> <p>18 THE WITNESS: Jason Tucker did business</p> <p>19 with as Takeover with Great Northern with nobody</p> <p>20 else knowing about it, but him.</p> <p>21 BY MR. HARVEY:</p> <p>22 Q Okay.</p> <p>23 A <b>No board -- no board consent, no board</b></p> <p>24 <b>of directors. Anything -- just let me be clear.</b></p> <p>25 <b>Anything that at that kind of level would've had</b></p>

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<p>184</p> <p>1 to have me, Joe, and Jason vote on. Plain and</p> <p>2 simple. Especially that kind of money moving</p> <p>3 around, anything over 20 grand, it -- you had to</p> <p>4 have authorization to do -- all that stuff had to</p> <p>5 have -- we voted on. There was no one guy making</p> <p>6 a call. That's why Jason got us pushed out so he</p> <p>7 could go try to get this deal done and spend</p> <p>8 Deppoleto's money on stupid shit. We would've --</p> <p>9 I would've never spent James's money on that. I</p> <p>10 would've never even asked him for the money to do</p> <p>11 that. It's absolutely insane. I feel bad. Is he</p> <p>12 owed it back? Of course he is. Of course, he is.</p> <p>13 Q You -- but again, you were suspended</p> <p>14 from the company in October '22 and early part of</p> <p>15 November '22, so you wouldn't have been voting on</p> <p>16 anything during that time frame, correct?</p> <p>17 A So, well, if I'd have found out about</p> <p>18 it, it would've been squashed so James would've</p> <p>19 never lost his money because the money would have</p> <p>20 never -- we would have never -- he would have</p> <p>21 never been in this position. All he had to do --</p> <p>22 all he had to do was talk to me.</p> <p>23 Q Again -- again, I'm -- I'm asking a</p> <p>24 simpler question than the one you're answering.</p> <p>25 You were suspended in October 22 and through</p>	<p>186</p> <p>1 then tried setting up meetings after that, and I</p> <p>2 started getting the emails on my private e-mail.</p> <p>3 Q Again, I -- I was asking a much -- I</p> <p>4 was asking a much simpler question. You don't</p> <p>5 know what anyone from Takeover was telling Mr.</p> <p>6 Deppoleto in the October '22 through November 4,</p> <p>7 2022 time frame, correct?</p> <p>8 A No. No.</p> <p>9 Q That's incorrect --</p> <p>10 A No.</p> <p>11 Q -- or did we have a double negative?</p> <p>12 A No, I don't -- I don't know what they</p> <p>13 were telling him, what Jason was telling him. It</p> <p>14 would've just been Jason.</p> <p>15 Q Okay. Do you know what those</p> <p>16 supplemental loans were used for?</p> <p>17 A I couldn't tell you. I know what we</p> <p>18 found --</p> <p>19 Q I'll show you another Exhibit --</p> <p>20 A -- I know what we found out, that what</p> <p>21 they had to pay for.</p> <p>22 Q I'm going to show you another exhibit.</p> <p>23 One second. Okay. Are you able to see my screen?</p> <p>24 A Yeah.</p> <p>25 MR. HARVEY: This is November 8th.</p>
<p>185</p> <p>1 November 20 -- November 4, 2022, correct?</p> <p>2 A Yeah. Like, late -- late -- last week</p> <p>3 September all the way through first, second week</p> <p>4 of November.</p> <p>5 Q And so during that time frame, you</p> <p>6 would not have been voting on anything for</p> <p>7 Takeover, correct?</p> <p>8 A No, but Joe Pavlik would've been</p> <p>9 involved and Joe knew nothing either.</p> <p>10 Q Okay. And since you were suspended,</p> <p>11 you don't know what anyone from Takeover said to</p> <p>12 Mr. Deppoleto in that October '22 through November</p> <p>13 4, '22 time frame, correct?</p> <p>14 A No. Jason gave me a call when they --</p> <p>15 I was supposed to be at NXT that year, which is</p> <p>16 the convenience show in Vegas, which is the</p> <p>17 biggest one. I believe it's the second week of</p> <p>18 October. And that's what he suspended me for --</p> <p>19 before it so I couldn't go to it, so they could</p> <p>20 sit down with 5-hour. Because if I had have found</p> <p>21 out about it, I would have squashed it. So I</p> <p>22 didn't know any of this until after I got back.</p> <p>23 But he did call me from NXT. Deppoleto showed up</p> <p>24 at that event. They tried meeting with Jeff</p> <p>25 Sigouin from 5-hour, who I know very well, and</p>	<p>187</p> <p>1 Oh, and by the way, this is</p> <p>2 Exhibit 7, I believe.</p> <p>3 (EXHIBIT 7 MARKED FOR IDENTIFICATION)</p> <p>4 THE REPORTER: Yes.</p> <p>5 BY MR. HARVEY:</p> <p>6 Q Thank you. So November 8th, 2022</p> <p>7 letter from Husch Blackwell to a number of people,</p> <p>8 and it says, Notice of Default Demand for Payment</p> <p>9 and Cease and Desist. Do you see that?</p> <p>10 A Yes, sir.</p> <p>11 Q Do you recognize this document?</p> <p>12 A I've seen it before.</p> <p>13 Q What was your reaction to receiving</p> <p>14 that notice?</p> <p>15 A I pushed everything to the attorneys.</p> <p>16 Q Okay. Did you discuss the notice with</p> <p>17 anyone after you received it?</p> <p>18 A I don't recall.</p> <p>19 Q You don't remember any discussions with</p> <p>20 Mr. Holley and Mr. Pavlik? Anyone?</p> <p>21 A I'm assuming we had phone calls with</p> <p>22 our Counsel, and we let them deal with --</p> <p>23 Q Was anyone else -- was anyone else on</p> <p>24 the calls other than --</p> <p>25 A No.</p>

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30 (188 to 191)

<p>188</p> <p>1 Q -- if I'm hearing you correctly?</p> <p>2 A <b>It would've just been me, Joe, Mike</b></p> <p>3 <b>Ghini, and Jennifer.</b></p> <p>4 Q And no one other than the people you</p> <p>5 just named was on the -- were -- were on those</p> <p>6 calls; is that right?</p> <p>7 A <b>I don't believe so.</b></p> <p>8 Q You understood that what this notice</p> <p>9 Mr. Deppoleto is providing notice to Takeover that</p> <p>10 it defaulted on Mr. Deppoleto's loans, correct?</p> <p>11 A <b>Yes.</b></p> <p>12 MR. BENNION: Sustain an objection to</p> <p>13 the extent it may call for a legal conclusion.</p> <p>14 Go ahead, Toby.</p> <p>15 THE WITNESS: That's what it appears to</p> <p>16 be.</p> <p>17 BY MR. HARVEY:</p> <p>18 Q You agree that Takeover defaulted on</p> <p>19 its obligations to Mr. Deppoleto?</p> <p>20 MR. BENNION: Same objection. May call</p> <p>21 for a legal conclusion.</p> <p>22 Go ahead.</p> <p>23 THE WITNESS: No, I do not. I don't</p> <p>24 believe Takeover defaulted.</p> <p>25 BY MR. HARVEY:</p>	<p>190</p> <p>1 MR. BENNION: Same objection.</p> <p>2 THE WITNESS: I have no knowledge.</p> <p>3 BY MR. HARVEY:</p> <p>4 Q Does Takeover intend to repay Mr.</p> <p>5 Deppoleto?</p> <p>6 A <b>While I was --</b></p> <p>7 MR. BENNION: Objection. Lacks</p> <p>8 foundation. Vague and ambiguous.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: While I was there; you</p> <p>11 bet your ass. Yes, sir.</p> <p>12 BY MR. HARVEY:</p> <p>13 Q Okay. Let me show you another document</p> <p>14 now. Are you able to see my screen?</p> <p>15 A <b>Yes, sir.</b></p> <p>16 MR. HARVEY: This will be Exhibit</p> <p>17 Number 8.</p> <p>18 (EXHIBIT 8 MARKED FOR IDENTIFICATION)</p> <p>19 BY MR. HARVEY:</p> <p>20 Q And this is a letter from Husch</p> <p>21 Blackwell dated November '22. Looks like to the</p> <p>22 same recipients of the letter or as the recipients</p> <p>23 from Exhibit 7.</p> <p>24 A <b>Right.</b></p> <p>25 Q And this one's subject to second notice</p>
<p>189</p> <p>1 Q Upon receiving this notice, did</p> <p>2 Takeover begin a process to repay Mr. Deppoleto's</p> <p>3 loans?</p> <p>4 A <b>He was contacted right when we took the</b></p> <p>5 <b>company back over to try to negotiate it. He</b></p> <p>6 <b>didn't want nothing to do with it. He wanted to</b></p> <p>7 <b>stick by Jason's side.</b></p> <p>8 Q Well, negotiation's one thing, but I'm</p> <p>9 asking, was there an official process to start</p> <p>10 repaying him?</p> <p>11 A <b>I don't recall.</b></p> <p>12 MR. BENNION: Objection. May call for</p> <p>13 speculation. May call for legal conclusion.</p> <p>14 Go ahead, Toby.</p> <p>15 THE WITNESS: Yeah. I don't recall.</p> <p>16 BY MR. HARVEY:</p> <p>17 Q Did Takeover begin a process to cure</p> <p>18 its default?</p> <p>19 A <b>I don't --</b></p> <p>20 MR. BENNION: Same -- same objection.</p> <p>21 Go ahead, Toby.</p> <p>22 THE WITNESS: I don't recall.</p> <p>23 BY MR. HARVEY:</p> <p>24 Q To date, has Takeover repaid any amount</p> <p>25 of the funds that Mr. Deppoleto loan to Takeover?</p>	<p>191</p> <p>1 of default and demand for payment, correct?</p> <p>2 A <b>Yes.</b></p> <p>3 Q Have you seen this document before?</p> <p>4 A <b>Briefly. Yes.</b></p> <p>5 Q And it is a second notice of default in</p> <p>6 Mr. Deppoleto demanding payment a second time,</p> <p>7 correct?</p> <p>8 A <b>That's what it says.</b></p> <p>9 Q After you received this notice, did you</p> <p>10 discuss it with anyone?</p> <p>11 A <b>Same as before.</b></p> <p>12 Q Meaning you did with Mr. Holley, Mr.</p> <p>13 Pavlik, and your Counsel?</p> <p>14 A <b>Yes, sir.</b></p> <p>15 Q Was anyone else involved in those</p> <p>16 discussions?</p> <p>17 A <b>Not that I'm aware of.</b></p> <p>18 Q For instance, was Mr. Zarro involved in</p> <p>19 those discussions?</p> <p>20 A <b>Not that I'm aware of.</b></p> <p>21 Q And other than that joint, was it a</p> <p>22 phone call, or was it several calls? What was it?</p> <p>23 A <b>I believe Zooms, Mr. Harvey.</b></p> <p>24 Q Zooms plural, or just one Zoom.</p> <p>25 A <b>There might have been one for the first</b></p>

<p>192</p> <p>1 <b>one and one for this one.</b></p> <p>2 Q Okay. And other than that, you didn't</p> <p>3 discuss this notice with any other individual</p> <p>4 after that Zoom, or Zooms?</p> <p>5 <b>A Not that I'm aware of.</b></p> <p>6 Q After receiving this notice, did</p> <p>7 Takeover begin a process to repay Mr. Deppoleto's</p> <p>8 loans?</p> <p>9 <b>A Not that I'm aware of.</b></p> <p>10 Q Why not?</p> <p>11 <b>A I -- I don't recall. I'd have to ask</b></p> <p>12 <b>the attorneys.</b></p> <p>13 Q We briefly touched on this a little bit</p> <p>14 before, but now I'm asking a little bit broader</p> <p>15 question. Has Takeover ever considered a spin out</p> <p>16 or a spinoff?</p> <p>17 <b>A Not that I'm aware of.</b></p> <p>18 MR. BENNION: Objection. That's vague</p> <p>19 and ambiguous.</p> <p>20 BY MR. HARVEY:</p> <p>21 Q Has Takeover ever considered trying to</p> <p>22 go public?</p> <p>23 <b>A Well, it's already public. Takeover is</b></p> <p>24 <b>-- it's already a public company. You mean, go</b></p> <p>25 <b>private?</b></p>	<p>194</p> <p>1 <b>A Yeah. We're filing counters, so that's</b></p> <p>2 <b>eventually going to get thrown out pretty quick.</b></p> <p>3 MR. HARVEY: I'm going to show you</p> <p>4 another document, which will be Exhibit 9.</p> <p>5 (EXHIBIT 9 MARKED FOR IDENTIFICATION)</p> <p>6 BY MR. HARVEY:</p> <p>7 Q You're able to see my screen?</p> <p>8 <b>A Yes, sir.</b></p> <p>9 Q And this is the verified complaint in</p> <p>10 the Arizona case, correct?</p> <p>11 <b>A I believe so.</b></p> <p>12 Q And if we look at the file stamp date,</p> <p>13 it tells us it was filed on March 8th, 2022,</p> <p>14 correct?</p> <p>15 <b>A Yes.</b></p> <p>16 Q Now, you were still the CEO of Takeover</p> <p>17 as of March 8th, 2022, correct?</p> <p>18 <b>A Yes.</b></p> <p>19 Q Did you review this complaint before it</p> <p>20 was filed?</p> <p>21 <b>A I don't believe so.</b></p> <p>22 Q Did you provide any information that</p> <p>23 was used in the complaint?</p> <p>24 <b>A I don't believe so. This is all Jason</b></p> <p>25 <b>Tucker.</b></p>
<p>193</p> <p>1 Q Your understanding is that Takeover is</p> <p>2 a publicly traded company?</p> <p>3 <b>A Well, it's through LTNC. It's one of</b></p> <p>4 <b>the same. Like I said, you'd have to get more in</b></p> <p>5 <b>the -- the weeds with Mike. Mike can explain</b></p> <p>6 <b>these more to you than I can. LTNC and Takeover.</b></p> <p>7 Q Okay. And -- and that's fair. You</p> <p>8 defer to Mr. Holley when it comes to questions</p> <p>9 about whether Takeover was public versus Labor</p> <p>10 Smart being public, that type of thing?</p> <p>11 <b>A Yeah. Just there's levels to it. So</b></p> <p>12 <b>he can explain it better than I can.</b></p> <p>13 Q Okay. To your knowledge, did anyone</p> <p>14 from Takeover ever discuss with Mr. Deppoleto</p> <p>15 spinning out Takeover or having Takeover go public?</p> <p>16 <b>A No, sir.</b></p> <p>17 Q Now, you're aware of the lawsuit that</p> <p>18 Takeover filed against Michael Holley in the</p> <p>19 District of Arizona, correct?</p> <p>20 <b>A I'm aware of it. Yeah.</b></p> <p>21 Q And after the initial lawsuit was</p> <p>22 filed, you were added as a third party defendant,</p> <p>23 correct?</p> <p>24 <b>A I believe so.</b></p> <p>25 Q And that case is still pending, correct?</p>	<p>195</p> <p>1 Q Who approved filing the complaint.</p> <p>2 <b>A Jason Tucker did. This is all Jason</b></p> <p>3 <b>Tucker.</b></p> <p>4 Q Did he discuss it with you before it</p> <p>5 was filed?</p> <p>6 <b>A I didn't want to file anything.</b></p> <p>7 Q So he did discuss it with you --</p> <p>8 <b>A Probably, it was --</b></p> <p>9 Q -- before it was filed?</p> <p>10 <b>A Yeah.</b></p> <p>11 Q Okay. Before Mr. Deppoleto's first</p> <p>12 loan on May 25th, 2022, did you ever tell Mr.</p> <p>13 Deppoleto about the Arizona litigation?</p> <p>14 <b>A As I've said before, we had a brief</b></p> <p>15 <b>conversation when we were in Dallas, but this was</b></p> <p>16 <b>public information.</b></p> <p>17 Q And when was this -- you -- you keep</p> <p>18 referencing this Dallas -- Dallas trip. When was</p> <p>19 this Dallas trip?</p> <p>20 <b>A May. June.</b></p> <p>21 Q And this complaint was filed on March</p> <p>22 8th, 2022, so that would've been after? The</p> <p>23 Dallas trip would've been after, correct?</p> <p>24 <b>A Yeah.</b></p> <p>25 Q Okay. So my question was, before May</p>

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<p>196</p> <p>1 25th, 2022, did you -- did you personally tell Mr. 2 Deppoleto about the Arizona litigation? 3 <b>A No.</b> 4 Q Are you aware of anyone else from 5 Takeover notifying Mr. Deppoleto about the Arizona 6 litigation before May 25th, 2022? 7 <b>A No. Just Jason Tucker.</b> 8 Q And do you know for a fact that he told 9 Mr. Deppoleto about this lawsuit before May 25? 10 <b>A Jason was in constant contact with</b> 11 <b>Deppoleto. So I would -- I would 99 percent</b> 12 <b>guarantee that happened.</b> 13 Q But you don't personally know that? 14 <b>A No.</b> 15 Q You never heard Mr. Tucker? 16 <b>A No, sir.</b> 17 Q We're -- we're talking over each other. 18 Let me make sure the question or the transcript's 19 clear. You don't personally know for a fact that 20 Mr. Deppoleto, or I'm sorry, Mr. Tucker told Mr. 21 Deppoleto about the lawsuit in Arizona before May 22 25th, 2022, correct? 23 <b>A No, sir.</b> 24 Q I think we had a double negative there. 25 Do you have personal knowledge of Mr. Tucker</p>	<p>198</p> <p>1 <b>A Yeah.</b> 2 Q In terms of who made the decision to 3 authorize the dismissal in February 2023, do you 4 know who from Takeover made that decision? 5 <b>A It would had have been the board of</b> 6 <b>directors.</b> 7 Q And you're saying would have had to 8 have been because you're -- you're assuming that 9 you don't actually know though; is that fair? 10 <b>A Yeah. Yeah. Yes, sir.</b> 11 MR. BENNION: I'm going to state a 12 belated objection. Calls for speculation. Lacks 13 foundation. 14 Go -- go ahead, Patrick. 15 BY MR. HARVEY: 16 Q And I think I know the answer to this, 17 but I have to ask anyways. Why did Takeover 18 decide to dismiss all the claims against the 19 Holleys? 20 <b>A I have no --</b> 21 MR. BENNION: Same -- same objection. 22 BY MR. HARVEY: 23 Q I'm sorry. You -- you were talking 24 over your attorney. What was your answer? 25 <b>A I have no -- I -- I have no knowledge</b></p>
<p>197</p> <p>1 telling Mr. Deppoleto about the Arizona litigation 2 before May 25th, 2022? 3 <b>A No, sir.</b> 4 Q Okay. To your knowledge, did take over 5 file a stipulation to dismiss all the claims 6 against Michael Holley and his wife in February 7 2023? 8 <b>A I believe so.</b> 9 Q Do you know who at Takeover made the 10 decision to dismiss the claims against the Holleys? 11 <b>A I believe it was me, Joe, me, Joe</b> 12 <b>Pavlik, and -- and our attorney, because they were</b> 13 <b>false claims.</b> 14 Q Now, I thought you told me that you -- 15 <b>A Yeah.</b> 16 Q I thought you told me you left Takeover 17 in January 2023. Is that -- did I misunderstand 18 you earlier? 19 <b>A Oh, yeah. But that would have -- that</b> 20 <b>would have been -- that would have been whoever's</b> 21 <b>there now.</b> 22 Q Okay. So -- 23 <b>A Sorry.</b> 24 Q -- let me make sure I've got it. Let 25 me make sure I've got it clear.</p>	<p>199</p> <p>1 <b>of that.</b> 2 Q Okay. Do you know whether anyone at 3 Takeover sought Mr. Deppoleto's consent to dismiss 4 all the claims against the Holleys before they 5 were dismissed? 6 <b>A I have no knowledge of that.</b> 7 Q To your knowledge, has Takeover ever 8 maintained directors and officers liability 9 insurance? 10 <b>A I believe we have, but I'm not</b> 11 <b>confident.</b> 12 Q What period of time do you believe 13 Takeover had D&amp;O insurance? 14 <b>A I couldn't tell you.</b> 15 Q Do you know what the liability limits 16 were? 17 <b>A I know what it was on the product. It</b> 18 <b>had to be over a million, so.</b> 19 Q Did you say if it was on a product? 20 <b>A We had to have liability insurance on</b> 21 <b>product when we went to a distributor or retailer.</b> 22 <b>So it would have to be \$1,000,000 at least, I</b> 23 <b>believe. It's a standard --</b> 24 Q Oh, you're talking about -- you're 25 talking about product liability insurance. I was</p>



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<p>200</p> <p>1 asking --</p> <p>2 <b>A Yeah.</b></p> <p>3 Q -- a slightly different question.</p> <p>4 Directors' and officers' liability insurance. So</p> <p>5 --</p> <p>6 <b>A More of a Mike --</b></p> <p>7 Q -- insurance that would cover the board</p> <p>8 of directors --</p> <p>9 <b>A Yeah, more of a --</b></p> <p>10 Q -- stuff like that.</p> <p>11 <b>A More of a --</b></p> <p>12 MR. BENNION: I'm -- I'm -- I'm going</p> <p>13 to state an -- an objection that this may call for</p> <p>14 speculation for Mr. McBride. Go ahead, Toby</p> <p>15 THE WITNESS: More of a Mike question.</p> <p>16 BY MR. HARVEY:</p> <p>17 Q Okay. Fair enough. You don't happen</p> <p>18 to know who the carrier was if you did have it --</p> <p>19 <b>A No, sir.</b></p> <p>20 Q -- do you?</p> <p>21 <b>A No, sir.</b></p> <p>22 MR. HARVEY: Okay. I'm going to show</p> <p>23 you another exhibit now.</p> <p>24 Oh, by the way, Counsel, so this</p> <p>25 will -- well, this will be Exhibit Number 10. I'm</p>	<p>202</p> <p>1 <b>A Yes.</b></p> <p>2 Q And that's as of December 31, 2022,</p> <p>3 according to the top, correct?</p> <p>4 <b>A Okay.</b></p> <p>5 Q And then if we go down to Row 85, it</p> <p>6 says, Total Liabilities for Takeover</p> <p>7 \$3,923,492.91, correct?</p> <p>8 <b>A Correct.</b></p> <p>9 Q So at least as of that date, we would</p> <p>10 agree that Takeover's liabilities exceeded its</p> <p>11 assets, correct?</p> <p>12 <b>A Okay. It's a beverage company. It's --</b></p> <p>13 Q By --</p> <p>14 <b>A Go ahead.</b></p> <p>15 Q By about a factor of 10, correct?</p> <p>16 THE REPORTER: I'm sorry. I didn't --</p> <p>17 I -- I didn't catch your last answer.</p> <p>18 MR. BENNION: Toby?</p> <p>19 THE WITNESS: Go ahead. Say it again.</p> <p>20 BY MR. HARVEY:</p> <p>21 Q I'll ask again. I -- I caught it, but</p> <p>22 I'll ask again so the court reporter can get it.</p> <p>23 So you'd agree with me that at least as of</p> <p>24 December 31, 2022 Takeover's liabilities exceeded</p> <p>25 its assets because the liabilities are 3.9 million</p>
<p>201</p> <p>1 going to show it to you.</p> <p>2 (EXHIBIT 10 MARKED FOR IDENTIFICATION)</p> <p>3 MR. HARVEY: Yesterday -- this is a</p> <p>4 spreadsheet that is labeled Takeover Industries</p> <p>5 Balance Sheet as of December 31, 2022. Counsel,</p> <p>6 yesterday you were asking me if I had the Bates</p> <p>7 number for it. It looks like it's DEF-338.</p> <p>8 MR. BENNION: Thank you very much.</p> <p>9 MR. HARVEY: No problem.</p> <p>10 BY MR. HARVEY:</p> <p>11 Q Mr. McBride, I'm showing you Exhibit</p> <p>12 Number 10, which as I said is Bates-labeled</p> <p>13 DEF-338. It's a spreadsheet called Takeover</p> <p>14 Industries Inc. Balance Sheet as of December 31,</p> <p>15 2022. Have you seen this document before?</p> <p>16 <b>A I have not.</b></p> <p>17 Q Okay. And I was asking you some</p> <p>18 questions earlier about when Takeover's</p> <p>19 liabilities exceeded its assets. Do you remember</p> <p>20 those questions?</p> <p>21 <b>A Yeah.</b></p> <p>22 Q Just to try and orient ourselves a</p> <p>23 little bit better, I'll be brief with this, if we</p> <p>24 go down to Row 36 of the spreadsheet. It says,</p> <p>25 Total Assets, 329,000 and change, correct?</p>	<p>203</p> <p>1 and the assets are 329,000, correct?</p> <p>2 <b>A Correct. But it's also a beverage</b></p> <p>3 <b>company. That's what's going to happen. This</b></p> <p>4 <b>happens in beverage companies all the time.</b></p> <p>5 Q And the liabilities were factor of</p> <p>6 about 10 greater than its -- or exceeded the</p> <p>7 assets by a factor of about 10; is that correct?</p> <p>8 <b>A Basically.</b></p> <p>9 Q Okay. And then if we go to Row 61 of</p> <p>10 Takeover's balance sheet, as of December 31, 2022,</p> <p>11 it's showing liabilities to James Deppoleto in the</p> <p>12 amount of \$2,016,697, correct?</p> <p>13 <b>A That's what it says.</b></p> <p>14 Q Okay. Make this one down. Give me</p> <p>15 just one second. I'm making a couple notes that I</p> <p>16 think is going to make this go a little quicker.</p> <p>17 MR. BENNION: Sure. I'm going to</p> <p>18 stretch my legs. I can hear you. I'm just</p> <p>19 walking in my office.</p> <p>20 MR. HARVEY: Okay.</p> <p>21 THE WITNESS: Hopefully, we're -- get</p> <p>22 this done sooner.</p> <p>23 BY MR. HARVEY:</p> <p>24 Q You mentioned -- it was probably about</p> <p>25 15, 20 minutes ago, you mentioned that you think</p>




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<p>204</p> <p>1 that there were revised copies of the notes. Do</p> <p>2 you remember saying that a few minutes ago? 15</p> <p>3 minutes ago, maybe?</p> <p>4 <b>A Yes, sir.</b></p> <p>5 Q Do you have copies of the drafts or</p> <p>6 revised versions of the notes?</p> <p>7 <b>A I don't have Takeover e-mail anymore.</b></p> <p>8 <b>I have no access to any of that anymore. I know</b></p> <p>9 <b>that they were -- they were in the Arizona case,</b></p> <p>10 <b>so you could go to there and find everything.</b></p> <p>11 <b>They're definitely in that.</b></p> <p>12 Q Who provided them in that case?</p> <p>13 <b>A We did because we found them in -- in</b></p> <p>14 <b>Tucker's emails. And Veronica's.</b></p> <p>15 Q Have you heard of a company called</p> <p>16 Illumination Holdings, Inc.?</p> <p>17 <b>A I have no idea who that is.</b></p> <p>18 Q How about Illumination Brands, Inc. Do</p> <p>19 you know who that is?</p> <p>20 <b>A I have no idea who that is.</b></p> <p>21 Q Let's go off the record for just 30</p> <p>22 seconds. I want to talk to your counsel for one</p> <p>23 second.</p> <p>24 THE VIDEOGRAPHER: We are going off the</p> <p>25 record. The time is 11:06 a.m.</p>	<p>206</p> <p>1 Q Have you had any interaction whatsoever</p> <p>2 with Next Gen or any other Labor Smart affiliate</p> <p>3 or subsidiary since --</p> <p>4 <b>A I left?</b></p> <p>5 Q Yeah, sure.</p> <p>6 <b>A No. No.</b></p> <p>7 Q Okay. There was a time when you and</p> <p>8 Mr. Holley were personally taking a percentage of</p> <p>9 the investments that Takeover received from</p> <p>10 investors, correct?</p> <p>11 MR. BENNION: I'm going to state an</p> <p>12 objection. Calls for a legal conclusion. Lacks</p> <p>13 foundation. May call for speculation. Go ahead.</p> <p>14 THE WITNESS: Not that I'm aware of.</p> <p>15 BY MR. HARVEY:</p> <p>16 Q If Mr. Holley testified to that effect,</p> <p>17 would you disagree with him?</p> <p>18 <b>A No.</b></p> <p>19 Q And did you ever disclose to investors</p> <p>20 that that was going on?</p> <p>21 MR. BENNION: Same objection.</p> <p>22 THE WITNESS: I'm not aware.</p> <p>23 BY MR. HARVEY:</p> <p>24 Q And I may have asked you this and --</p> <p>25 when I first was taking your deposition last</p>
<p>205</p> <p>1 (OFF THE RECORD)</p> <p>2 THE VIDEOGRAPHER: We are going back on</p> <p>3 the record. The time is 11:09 a.m.</p> <p>4 BY MR. HARVEY:</p> <p>5 Q Mr. McBride, have you ever heard of a</p> <p>6 company called Illumination Brands, Inc.?</p> <p>7 <b>A I have not.</b></p> <p>8 Q Do you know an individual named Brad</p> <p>9 Wyatt, W-Y-A-T-T?</p> <p>10 <b>A Why does the name sound familiar to me?</b></p> <p>11 <b>Name sounds familiar, but I can't place it.</b></p> <p>12 Q Okay. How about someone named Mike</p> <p>13 Ghini? And I'm not sure I'm -- or I'm not sure</p> <p>14 I'm spelling it right, but it might be G-H-I-N-I.</p> <p>15 Do you know a Mike Ghini?</p> <p>16 <b>A No, no. And Wyatt might be another</b></p> <p>17 <b>person's last name that I know too, so --</b></p> <p>18 Q Okay. And I think I know the answer to</p> <p>19 this because of your previous answers, but do you</p> <p>20 know what the distinction is being Next Gen</p> <p>21 Beverages, LLC, and NextGen Holdings?</p> <p>22 <b>A I have no idea about any of that.</b></p> <p>23 Q Do you know who Labor Smart's</p> <p>24 subsidiaries or affiliates are as of today?</p> <p>25 <b>A No, sir. No, sir.</b></p>	<p>207</p> <p>1 Friday, but just to make sure before I let you go,</p> <p>2 when Labor Smart purchased Takeover, what was the</p> <p>3 purchase price?</p> <p>4 <b>A That's going to be more of a Mike</b></p> <p>5 <b>question. I know -- I believe Ryan put in just</b></p> <p>6 <b>under a million, but it was -- it was bled in,</b></p> <p>7 <b>like, 200 here, 500 there because we had to clean</b></p> <p>8 <b>it up. There was things that we found out about</b></p> <p>9 <b>that we had to clean up that cost us money. So --</b></p> <p>10 <b>so it was just under a million, Patrick.</b></p> <p>11 Q You're talking --</p> <p>12 <b>A Ryan Schadel.</b></p> <p>13 Q You're talking about Ryan Schadel</p> <p>14 putting in about \$1,000,000 into Takeover?</p> <p>15 <b>A And to LTNC to get it cleaned -- to get</b></p> <p>16 <b>us going with -- with Takeover being the</b></p> <p>17 <b>subsidiary of that.</b></p> <p>18 Q So money, he -- some of the money he</p> <p>19 put into Labor Smart, which was then passed down</p> <p>20 to Takeover. Is that what you're saying?</p> <p>21 <b>A More of a Mike question.</b></p> <p>22 MR. BENNION: Objection. Objection.</p> <p>23 May call for a legal conclusion.</p> <p>24 BY MR. HARVEY:</p> <p>25 Q I'm sorry. I didn't hear your answer.</p>

Transcript of Toby McBride, Volume II  
Conducted on November 22, 2024

35 (208 to 211)

<p>208</p> <p>1     <b>A That's more Mike than -- than me. I</b> 2 <b>don't want to confuse things.</b> 3         MR. HARVEY: Let me just glance through 4 my notes for one second. We don't even need to go 5 off the record because it's probably going to be 6 15, 30 seconds. 7 BY MR. HARVEY: 8     Q That's all I have for you, Mr. McBride. 9 Thank you. 10    <b>A Yes, sir. Glad you got home safe.</b> 11         MR. BENNION: No -- no -- no questions. 12         MR. HARVEY: Thanks. 13         THE VIDEOGRAPHER: All right. 14         THE WITNESS: All right, guys. 15         THE VIDEOGRAPHER: This marks the end 16 of the deposition of Toby McBride. The time on 17 the monitor is 11:14 a.m. 18         (Off the record at 11:14 a.m.) 19 20 21 22 23 24 25</p>	<p>210</p> <p>1             CERTIFICATE OF TRANSCRIBER 2             I, Krystin Spolar, CET, do hereby certify 3 that this transcript was prepared from the digital 4 audio recording of the foregoing proceeding; that 5 said proceedings were reduced to typewriting under 6 my supervision; that said transcript is a true and 7 accurate record of the proceedings to the best of 8 my knowledge, skills, and ability; and that I am 9 neither counsel for, related to, nor employed by any 10 of the parties to the case and have no interest, 11 financial or otherwise, in its outcome. 12 <i>Krystin Spolar</i> 13 _____ 14 Krystin Spolar, CET 15 Planet Depos, LLC 16 December 6, 2024 17 18 19 20 21 22 23 24 25</p>
<p>209</p> <p>1     CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2         I, Charlie McGrath, AAERT CER, the officer 3 before whom the foregoing proceedings were 4 taken, do hereby certify that any witness(es) in 5 the foregoing proceedings were fully sworn; 6 that the proceedings were recorded by me and 7 thereafter reduced to typewriting by a 8 qualified transcriptionist; that said digital 9 audio recording of said proceedings are a 10 true and accurate record to the best of my 11 knowledge, skills, and ability; and that I am 12 neither counsel for, related to, nor employed 13 by any of the parties to this case and have 14 no interest, financial or otherwise, in its 15 outcome. 16  17 _____ 18 Charlie McGrath, AAERT CER, Notary Public, for the 19 State of California 20 December 6, 2024 21 22 23 24 25</p>	

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